

**RECALCITRANT COUNTRIES: DENYING VISAS TO
COUNTRIES THAT REFUSE TO TAKE BACK
THEIR DEPORTED NATIONALS**

HEARING

BEFORE THE

**COMMITTEE ON OVERSIGHT
AND GOVERNMENT REFORM
HOUSE OF REPRESENTATIVES**

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RECALCITRANT COUNTRIES: DENYING VISAS TO COUNTRIES THAT REFUSE TO TAKE BACK THEIR DEPORTED NATIONALS

Thursday, July 14, 2016

HOUSE OF REPRESENTATIVES,
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
Washington, D.C.

The committee met, pursuant to call, at 9:32 a.m., in Room 2154, Rayburn House Office Building, Hon. Jason Chaffetz [chairman of the committee] presiding.

Present: Representatives Chaffetz, Mica, Jordan, Walberg, Amash, Meadows, DeSantis, Buck, Walker, Blum, Hice, Russell, Carter, Grothman, Palmer, Cummings, Maloney, Lynch, Connolly, Cartwright, Kelly, Lawrence, Lieu, and Plaskett.

Chairman CHAFFETZ. The Committee on Oversight and Government Reform will come to order. And without objection, the chair is authorized to declare a recess at any time.

I appreciate the members being here. I would also like to take the opportunity to note the presence of our colleague Congressman Joe Courtney of Connecticut, who is here. We appreciate your interest in this topic and welcome your participation today.

I ask unanimous consent that Congressman Courtney be allowed to fully participate in today's hearing. Without objection, so ordered.

We are here today to talk about "Recalcitrant Countries: Denying Visas to Countries That Refuse to Take Back Deported Nationals." Let me try to just ad-lib and summarize the situation.

We have people that come here legally to this country; we have people that come here illegally to this country. But there is a population here that may have overstayed a visa. They may have come here on a tourist visa or a student visa, but they were supposed to go home and they didn't and they are here illegally.

Nevertheless, there is a large population of people that are in this country illegally. Unfortunately, there is also a criminal element to this population. The discussion that we are having today is about the criminal element, the criminal element within that illegal immigration population. I don't think there is an argument on any side of this equation to deal with the criminal element in a much more serious, sophisticated way and something that is fair to the American people and to our country.

Since 2013, there are some 86,288 people who are here legally, committed a crime, got caught, convicted of that crime, and instead of being deported, they were released back out into the United

States of America. These 86,288 people, again, just since 2013, committed some 231,074 crimes. That is a lot of criminal activity that can be totally and wholly avoided.

Now, the administration has given a couple different excuses as to why they can't deport these people, and I don't understand that, and that is why we are having this hearing. We have had a couple of hearings where we have highlighted and discussed this in the past.

Some have said it is money. It is not money. In fact, ICE tried to give back—Homeland Security tried to take \$113 million from ICE's enforcement budget asked Congress in June of 2015 to reprogram it to other DHS components with no role, no role in immigration enforcement. So Congress has allocated, again, \$113 million, and ICE is saying, hey, we don't need it. Let's put it somewhere else. So it is not going to be the money. That is not going to be a good excuse.

Some have said, well, these other countries won't take them. Well, Congress before my time in the Immigration and Nationality Act, section 243(d), contemplated the idea that we would find a criminal alien and we would want to deport them and the country would say, well, you know, we don't want the back. They are your problem now that they are in your country.

Here is what the law says, okay? I want to read the law. The law says "If a foreign country denies or unreasonably delays accepting an alien who is a citizen, subject, national, or resident of that country after the Attorney General"—which also now includes this Secretary of Homeland Security—"asks whether the government will accept the alien under this section, the Secretary of State shall"—not if, not might—"shall order consular officers in that foreign country to discontinue granting immigrant visas or nonimmigrant visas or both to citizens, subjects, nationals, and residents of that country until the Attorney General"—also read to mean the Secretary of Homeland Security—"notifies the Secretary that the country has accepted the alien."

Now, as best we can tell, this important provision has only been used one time, and on that occasion it proved highly effective. On September 7 of 2001, the Attorney General requested the Secretary of State impose sanction on Guyana for refusing to issue travel documents for its nationals. On October 10, 2001, the State Department stopped granting nonimmigrant visas to employees of the government of Guyana, their spouses, and their children. Within 2 short months, Guyana issued travel documents to 112 of the 113 Guyanese aliens who had been ordered removed from the United States, and the sanction was lifted. We went back to Guyana, we said we are not going to do this anymore, they changed their ways, they went back to their country, and it was proved highly effective.

We are here today to have a discussion—and I really do appreciate Ambassador Bond being here—to understand why the State Department is not doing this because, much to my surprise—I was highly skeptical when the head of ICE came in and said, well, we have been asking, we have been trying to do this. And I thought really? Come on, show me some documentation. There is some documentation there that they have been trying to do this, but it does

not appear that the State Department has been actually taking the step that is required by the law.

And this decision has real consequences. On April 28 of 2016, Wendy Hartling testified before this committee. She is the mother of Casey Chadwick. Casey was stabbed to death and stuffed into a closet on June 15 of 2015 by a criminal alien Jean Jacques. Prior to killing Casey, Mr. Jacques was found guilty of attempted murder on June 9 of 1997 and served 16 years in prison in Connecticut. He was released from prison in April of 2012. He should have automatically been deported back to his home country of Haiti after he was released from prison, but instead, he was released from custody because Haiti refused to take him back, and we just accepted that. We just say, okay, Haiti, we will go ahead and keep him here in the United States.

And while ICE placed him in on a reporting schedule, he failed to report on multiple occasions. So not only did he have the murder, he is supposed to report, he doesn't, and ultimately, he ended up killing Casey Chadwick in cold blood. He was found guilty of murder on April 11 of 2016, and today, we are going to talk about only a portion of the criminal aliens released each year into the American streets.

The 8,000—these numbers are so big—the 8,275 criminal aliens released in the last 3 years under Zadvydas represent only 9.5 percent of the 86,288 total criminal aliens, again, a Supreme Court decision where ICE, Homeland Security is saying, hey, we can't continue to hold these people in perpetuity. We have to release them.

And let me just give you 1 year's statistics and then we will go on. In last year alone ICE, Immigration and Customs Enforcement, released, released—keep in mind, these people committed crimes. They are convicted of these crimes. They are in our possession and we release them out in the public. Nineteen thousand seven hundred and twenty-three criminal aliens, who among them had 64,197 convictions, including 934 sex offenses, 804 robberies, 216 kidnappings, and 196 homicide-related convictions, how do you look the parents in the eye of somebody who is murdered, their son or daughter, because the government said, well, you know, it is in the best interest to just let them go back into the public here in the United States?

In instituting section 243(d), Congress concluded ensuring public safety was the government's primary duty and it must be its first priority. That is the heart of the hearing that we are going to have today. I do appreciate the witnesses.

Chairman CHAFFETZ. And with that, I will yield back and recognize the ranking member, Mr. Cummings.

Mr. CUMMINGS. Thank you very much, Mr. Chairman. I want to thank our witnesses for being with us today to discuss this very important topic that is crucial to the safety of all of our communities.

In April we heard testimony from families whose children's lives were sadly cut short. Casey Chadwick's family told the story of her murder at the hands of Jean Jacques, someone our government tried unsuccessfully to deport. I was especially pained to hear that because of the actions of the Haitian Government and Haitian offi-

cials, someone who everybody agreed should not be in this country was allowed back on our streets to do more harm.

Since then, the inspector general of the Department of Homeland Security issued a report at the request of Connecticut lawmakers, including our distinguished colleague Congressman Joe Courtney, who has joined us today. That report found that Haitian officials repeatedly, refused to repatriate Mr. Jacques, but it also found that Immigration and Customs Enforcement could have done more. In other words, they could have done better.

ICE officials never raised this case to the State Department because they believed it would do nothing with it. I want to make sure we are doing everything we can to ensure that countries take back their citizens with dangerous criminal records. I joined with the chairman in sending bipartisan letters to ICE and the Department of State's Bureau of Consular Affairs requesting information on procedures for addressing recalcitrant countries and inviting these agencies to testify here today.

I understand that diplomacy is indeed complicated, but we cannot use the cloak of flexibility to rationalize not taking firm action when it is indeed warranted. It is critical that we remain vigilant. It is critical that we remain effective and efficient when we are dealing with these recalcitrant countries in trying to protect our own.

The Immigration and Nationality Act allows the United States to shut off visas to foreign countries when the Secretary of Homeland Security makes a formal notification to the Secretary of State that a country is being recalcitrant. And I am not arguing that this blunt tool should be used at the drop of a hat, but it can be used in targeted ways to send the appropriate message to these countries.

Our government used this statute, as the chairman said, to cut off visas to government officials and their families in Guyana in 2001. That proved to be effective, forcing Guyana to cooperate and accept the return of 112 out of 113 nationals awaiting deportation from the United States. I understand that we cannot use this drastic measure in all cases.

Denying visas in every instance would not always secure a country's cooperation, especially a country whose government controls civilian travel. If the United States used this tool at every moment of difficulty with a foreign country, we would open ourselves up to retaliation, we would isolate ourselves from the world, and our country's economy would grind to a halt.

What I hope we can do today is examine how we can use this tool and others effectively and how coordination between agencies can be improved. The memorandum of understanding between ICE and Consular Affairs outlines how the agencies employ a series of tools to address recalcitrant countries, including sending formal letters to foreign countries in considering more serious next steps. I am pleased to learn that ICE has added the additional step of consular interviews for all deportees to Haiti. I also understand that ICE is working on a pilot tool to better identify and analyze recalcitrant countries, which I look forward to hearing about more today.

I still believe ICE could be providing clearer guidance to its officials as to how and when they should alert State about individual cases. In addition, I am curious to hear that State is mandating that staff in Consular Affairs raise the issue of deportations in every formal interaction with recalcitrant country officials and that all chiefs of mission have been directed to emphasize with host government officials the high priority the United States places on removing dangerous criminal deportees.

I am also grateful that we are digging into this issue today. It is a very important issue, and I hope that we do so in a productive, bipartisan manner.

It is unfortunate that so many of our headlines today include divisive anti-immigrant rhetoric. Immigration provides the backbone for our country's success. People who commit violent crimes make up a very small portion of the immigrants in this country. Overall, immigrants are less likely to commit serious crimes or to be incarcerated than U.S. citizens, and high rates of immigration are associated with lower rates of violent crime and property crime.

And so in the same way that we are digging into this issue today, we need to dig deep, very deep into the rest of our broken immigration system in a very comprehensive manner.

And so I want to thank the witnesses again. I look forward to your testimony, and I am hoping, I am hoping that we will find ways to be more effective and efficient in addressing these issues, which the chairman and I have rightfully brought before this committee today.

And with that, Mr. Chairman, I yield back.

Chairman CHAFFETZ. I thank the gentleman.

And I do agree that we have got to fix legal immigration. It doesn't work in this country, and I wish we would do more on the immigration front.

I would like to ask unanimous consent to enter into the record nine items—bear with me as I read through each of these—a September 19, 2014, letter from Secretary Johnson to Secretary Kerry; a November 25, 2014, letter from Secretary Kerry to Secretary Johnson; an April 13, 2016, letter from Michele T. Bond to Director Saldana; two other letters from Michele Bond to Director Saldana, one of June 22, 2016, another on June 30, 2016, and an additional one of June 30, 2016, from Michele Bond to Director Saldana; a breakdown of the nationalities associated with the United States Immigration and Customs Enforcement releases in fiscal year 2015 and '16; year-to-date pursuit of *Zadvydas v. Davis*; a June 7, 2016, submission from Director Saldana to the committee containing an overview of the problems ICE is facing involving recalcitrant countries; and communications from Director Saldana to Michele Bond from May 8 to May 13, 2016; and finally, a Weekly Departure and Detention Report from June 20 of 2016.

Without objection, we are going to enter these into the record. And so ordered.

Chairman CHAFFETZ. We will hold the record open for 5 legislative days for any members who would like to submit a written statement.

We will now recognize our witnesses. We are pleased and honored to have the Honorable Michele Thoren Bond, assistant sec-

retary for the Bureau of Consular Affairs in the United States Department of State. Ambassador, we appreciate you being here. Mr. Daniel Ragsdale, deputy director for the United States Immigration and Customs Enforcement. We appreciate you both being here. You have served our country honorably, and we understand and appreciate your patriotism and again thank you for being here today.

Pursuant to committee rules, it is practice that all witnesses are to be sworn before they testify, so if you will please rise and raise your right hand.

[Witnesses sworn.]

Chairman CHAFFETZ. Thank you. Let the record reflect that both witnesses answered in the affirmative.

I think you have participated in this in the past. We will give me some leeway. We would like to limit your verbal comments to 5 minutes, but we will give you great latitude. Your entire written statement will be made part of the record.

Ambassador Bond, you are now recognized for 5 minutes.

WITNESS STATEMENTS

STATEMENT OF MICHELE THOREN BOND

Ms. BOND. Thank you, and good morning, Chairman Chaffetz, Ranking Member Cummings, and distinguished members of the committee. Thank you for this opportunity to testify today on the topic of repatriating aliens who are subject to final orders of removal.

The majority of the world's nations understand their legal and moral obligation to assist with the lawful repatriation of their citizens, including those who have been convicted of crimes and served their sentences. Currently, 23 countries routinely fail to document and accept their citizens for repatriation in a timely manner. My written statement describes the actions taken by the Department of State in close cooperation with ICE to bring these countries into compliance with their international obligations and to secure the repatriation of aliens under final orders of removal.

The protection of U.S. citizens is the highest priority of the Department of State. The Bureau of Consular Affairs leads the Department's efforts to protect U.S. citizens, and we are committed to assisting ICE to return all aliens who have been issued final orders of removal, especially those who pose a threat to public safety and security in the United States.

In 2011, ICE and Consular Affairs signed a memorandum of understanding, which improved our cooperation on repatriations. Consular Affairs has a dedicated team that works closely with ICE on this issue here in Washington and at our diplomatic missions overseas. Together, we remind foreign governments of their responsibilities to accept their nationals swiftly, work to resolve difficulties and delays, and monitor progress.

As you mentioned, in March 2015, I directed my staff to raise the issue of removals in every formal interaction with foreign officials from recalcitrant countries. I personally have raised the issue on numerous occasions in the past year with senior foreign government officials, including from Liberia, Guinea, China, India, and Cuba, among others. Today, a delegation of senior consular and

Homeland Security officials is once again raising this issue with our Cuban counterparts in Havana.

Recalcitrant countries vary considerably in capacity, political circumstances, and history. Each has different reasons for delays in repatriations, including limited law enforcement capacity, inadequate records, inefficient bureaucracy, and in some cases intentional policy. Some countries that are willing to cooperate in principle, are beset with internal problems so severe that repatriations become a low priority.

The tools we use to persuade recalcitrant countries to cooperate are equally varied and form part of our comprehensive diplomatic engagement. This is an ongoing, long-term effort to establish reliable and dependable procedures that work for every country. The Department of State works closely with ICE and other DHS colleagues to identify the most effective path forward in each case taking into consideration each country's specific situation and other important U.S. interests.

One tool at our disposal is section 243(d) of the Immigration and Nationality Act under which the Secretary of Homeland Security may send a notification to the Secretary of State, who then orders consular officials to discontinue granting immigrant visas or non-immigrant visas or both. State has and will implement such restrictions in consultation with DHS as necessary.

These restrictions can be a powerful means to address recalcitrant countries, but they are not the only and in many cases are not the most effective option. Some recalcitrant countries such as China and Cuba control the foreign travel of their citizens and maybe unmoved by our imposition of visa restrictions. Countries may retaliate in ways detrimental to wider U.S. economic or security concerns, including trade, tourism, and law enforcement cooperation.

Experience with many recalcitrant countries shows we can achieve significant improvements in compliance through diplomatic engagement in Washington and abroad to address resource capacity and other obstacles. Of course, we do not limit our efforts to those 23 countries currently deemed recalcitrant by ICE. We also seek to address shortcomings as they become apparent and before a country is found to be recalcitrant.

There are times where even countries generally considered compliant need specific reminders or engagement concerning repatriations. This may be to clarify a new process or procedure, to facilitate a particularly difficult case, or to highlight the importance of this issue following a change in government.

Mr. Chairman, Ranking Member Cummings, distinguished members of the committee, I assure you that where diplomatic engagement over time has not produced results, State is prepared to increase pressure through all available channels, including in cooperation with DHS the imposition of visa sanctions.

We appreciate the support of Congress as we continuously work to safeguard U.S. citizens around the world. And I look forward to your questions. Thank you.

[Prepared statement of Ms. Bond follows:]

Chairman Chaffetz, Ranking Member Cummings, distinguished Members of the Committee, thank you for this opportunity to testify on the topic of repatriating aliens who are subject to final orders of removal. My testimony will cover the Department of State's most recent efforts, our overall strategy, and a country-by-country breakdown of some of our engagement on this important issue.

We in the Department of State have no higher priority than the protection of U.S. citizens abroad. The Department takes very seriously our obligation to assist U.S. Immigration and Customs Enforcement (ICE) to effect the removal of aliens, especially those who pose a threat to public safety and security within the United States. My team in the Bureau of Consular Affairs and other colleagues at State work closely and cooperatively with ICE, in Washington and through our diplomatic missions overseas, to ensure that foreign governments comply with their responsibility to document and accept the return of their nationals swiftly.

My staff and I regularly meet with officials from recalcitrant countries in Washington and in foreign capitals. Today, a delegation of senior State and Department of Homeland Security (DHS) officials is, once again, raising this issue with the Cuban government in Havana. In March 2015, I mandated that my staff raise the issue of removals during every formal interaction with officials from countries that are recalcitrant in accepting their nationals ordered removed from the United States. The Deputy Secretary of State tasked all Chiefs of Mission to engage with host-government officials on repatriations, stressing that the swift documentation and removal of all aliens who are subject to final orders of removal, particularly those who pose a risk to national security or public safety, is a top priority for the U.S. government.

I personally have raised the issue on numerous occasions, including at the U.S.-India Consular Dialogue in November 2015; in separate meetings with the foreign ministers of Guinea and Liberia in March 2016; and in bilateral discussions with China in April 2016. State's Deputy Assistant Secretary for Visa Services, Edward Ramotowski, and ICE Enforcement and Removal Operations Assistant Director Marlen Piñeiro, have met to discuss coordination on many occasions. Together they have met several times with the governments of Iraq and Cabo Verde to push for progress on repatriations.

At a meeting in February 2016, ICE Director Sarah Saldaña and I agreed that Consular Affairs and ICE would work on specific plans of action for each recalcitrant country based on the current Memorandum of Understanding between our organizations. The Department works closely with DHS to engage with all countries for which removals are of concern, especially those deemed to be recalcitrant or uncooperative. My team coordinates with ICE, the regional bureaus within State, and our missions abroad to engage on specific areas of concern related to removals.

This effort is not limited to the Bureau of Consular Affairs. Regional bureau assistant secretaries also have engaged on repatriations, as has the Secretary of State, most recently during the Strategic and Economic Dialogue with China in June 2016. State's regional bureaus have met with a number of foreign ambassadors to the United States on this issue, and in no uncertain terms identified clear and achievable goals which they must meet in order to avoid immediate

escalation of pressure, to include visa sanctions as appropriate. In these meetings, the Department and DHS have been clear that we must see swift and tangible progress on this issue.

The majority of the world's nations understand their legal and moral obligations to accept the return of their citizens who are not eligible to remain in the United States or any other country, including those who have been convicted of crimes and served sentences. Mexico, Guatemala, South Africa, and Nigeria, for example, cooperate well with the United States on repatriations. Unfortunately, at any given time a number of countries, totaling 23 on ICE's current list, fail to issue travel documents for and accept the return of their citizens in a consistent and timely manner. These countries vary considerably with regard to capacity, political circumstances, and history. Each has different reasons for delays in repatriations, including limited law enforcement capacity, inadequate records, inefficient bureaucracy, and in a few cases, intentional policy. Some countries, though willing to cooperate in principle, are beset with internal problems so severe that repatriations become a low priority.

The measures we apply to persuade recalcitrant countries to cooperate are equally varied and part of our comprehensive diplomatic engagement with each. Although visa sanctions are an option, they are not the only, and in many cases are not the most effective, option. Some recalcitrant countries, such as China and Cuba, control the foreign travel of their citizens and may be unmoved by our imposition of visa sanctions. Sanctioned countries also could retaliate in ways detrimental to wider U.S. economic or security concerns, such as trade, tourism, or law enforcement cooperation. Taking into consideration each country's specific situation and other important U.S. interests, we work with ICE to determine the course of action best suited to securing compliance from each government.

In April 2011, Consular Affairs and ICE agreed, in a Memorandum of Understanding Concerning Repatriation, on provisions to address recalcitrant countries. These include options such as diplomatic intervention overseas and high-level engagement in Washington, practical measures designed to address resource and capacity limitations, and halting the issuance of visas.

With most recalcitrant countries, we have been able to achieve significant improvements in compliance through diplomatic engagement in Washington and overseas. For example, because of our successful engagement with Bangladesh, Pakistan, and Laos in recent years, these countries are no longer considered recalcitrant by ICE. We also have made progress with countries on the current list, such as Guinea, Iraq, Cabo Verde, Somalia, and Zimbabwe.

In the case of Guinea, we expect a government delegation to come to the United States this month to interview detainees and negotiate a Memorandum of Understanding on repatriations between our countries.

Following a meeting in May 2016 between high-level State and DHS officials and the Iraqi Ambassador to the United States, Iraq agreed to interview detainees and issue travel documents.

Cabo Verde is issuing travel documents while we work on a formal agreement on repatriations with its government, and Somalia recently agreed to issue a number of travel documents. We will continue to build on this progress.

Of course, we do not limit our efforts to the 23 countries currently deemed recalcitrant by ICE. Our engagement with the approximately 60 other countries maintained on a separate ICE list of non-cooperative nations seeks to address shortcomings before a country is found to be recalcitrant. There are times where even countries generally considered compliant need specific reminders or engagement concerning repatriations. This may be to clarify a new process or procedure, to facilitate a particularly difficult case, or to highlight the importance of this issue following a change in government.

The range of coordinated action by the Department of State and ICE with recalcitrant countries is effective in securing the repatriation of many deportable aliens every year. State works closely with ICE and other DHS colleagues to identify the most effective path forward for each country. The brief summaries below outline our efforts to ensure compliance from the countries at the top of the current ICE list of recalcitrant countries.

Cuba:

Cuba is the most recalcitrant country on repatriation of its nationals, as determined by ICE, and also represents one of the U.S. government's most complex bilateral relationships. We continue to engage the Cuban government on this issue. State issued a demarche in advance of the round of U.S.-Cuba Migration Talks now underway, where we will emphasize the importance of this issue, as we have at previous Migration Talks. Cuba has stated repeatedly that it will only consider accepting its nationals with final orders of removal in the context of significant changes to U.S. policy regarding Cuban migration. Disagreements on migration-related issues have long been a source of friction between the United States and Cuba, and while "wet-foot, dry-foot" remains U.S. policy regarding Cuban migration, we are confident that as the process of normalization advances, we will have more and more opportunities to advance important U.S. interests such as repatriations. At this time, we believe the most effective strategy with Cuba is to continue to work through the normalization process. We have consistently reminded the Cuban government this issue needs to be resolved before we can consider relations between our countries to be completely normalized. Cuba has been uncooperative on a variety of immigration issues for more than 50 years. At this time, we do not believe visa sanctions would be an effective near-term strategy, since the Cuban government, for political reasons, controls the travel of its citizens and therefore is unlikely to view sanctions as a detriment. Additionally, we cannot ignore the possibility that elimination of a legal travel route could trigger a dangerous mass migration.

China:

The relationship with China is exceptionally diverse and complex. According to the Department of Commerce, in 2015, Chinese visitors ranked first in the world in tourism spending in the United States, contributing more than \$29 billion to our economy. Chinese visitors contribute \$74 million per day on average to the U.S. economy through travel and tourism across all 50 states, accounting for more than half of U.S. services exports to China.

Last year, more than 2,000 U.S. families adopted a child from China, the single biggest foreign country of adopted U.S. children, accounting for half of our annual total of international adoptions.

The diplomatic picture with China is complex and involves important interests affecting the lives of U.S. citizens, and we continue to work with China to improve its cooperation on repatriations; the level of cooperation has varied over time. China's government often links the issue of repatriations to other political issues of importance to it, such as the return of fugitives accused of criminal acts in China. President Obama and President Xi discussed removals in September 2015, and Secretary Kerry has raised the issue with the Chinese government several times, most recently at the Strategic and Economic Dialogue in Beijing in June 2016. I also emphasize the importance of this issue with my Chinese counterpart at our annual bilateral consular dialogues.

We continue to work closely with DHS on engagement and an effective strategy that ends with China's compliance on repatriations.

Somalia:

Somalia, which faces extraordinary challenges in governance, has improved its cooperation on repatriations. In August 2015, ICE informally notified State that Somalia was uncooperative. Since then, we have met with the Somali Director of Immigration and Naturalization to discuss and agree upon improved procedures to obtain Somali travel documents and repatriate Somali citizens. We also have engaged with other levels of the Somali government to ensure officials understand the importance of this issue and potential consequences if they do not cooperate. As a result of a coordinated U.S. approach, Somalia has issued travel documents in the majority of outstanding cases with final orders of removal, and continues to cooperate.

India:

As with China, the range of U.S. foreign policy interests and concerns in our relationship with India is diverse and complex. Indians comprise the second-largest population of foreign students in the United States, with more than 130,000 Indian nationals studying at institutions across the country. These and thousands of other Indian visitors bring billions of dollars into the U.S. economy, supporting thousands of jobs and establishing lasting people-to-people ties between our two countries. India's growing economy has made it our 11th largest trading partner, and its vibrant democracy supports the development and security of other emerging countries in South Asia.

While there has been some progress on removals since the November 2015 U.S.-India Consular Dialogue, during which State and DHS jointly highlighted the urgency of resolving this issue, it has not been enough. Following this and subsequent discussions, and many other interventions on this issue at different levels with the Government of India and with its diplomatic mission in the United States, India has improved its timeliness in issuing travel documents to its citizens under final orders of removal.

Fifty-four Indian citizens returned home on an ICE charter flight in April 2016, and the Government of India is scheduling a July 2016 charter as well. We are encouraged that India is on a positive trajectory, and intend to remain engaged on this issue with India through newly established quarterly meetings to address difficult cases and ensure processes are smooth and efficient. State and DHS will continue to work closely with the Indian government to maintain

and build on this progress. We will continue to raise this issue with Indian officials at appropriate levels, including at the upcoming U.S.-India Homeland Security Dialogue, which is scheduled to take place in Washington in late July 2016.

I will travel to New Delhi in August for our annual consular bilateral dialogue. As in past years, I will raise this issue with the Indians, and press for immediate action on the part of the Indian government to issue travel documents and accept the return of its citizens under final orders of removal.

Mr. Chairman, Ranking Member Cummings, and distinguished Members of the Committee, I want to assure you that the Department of State works cooperatively and creatively with ICE, using the full range of available tools, to see that every country accepts the lawful return of its citizens and residents. Where such engagement over time has not produced results, State is prepared to step up the pressure through all channels, including visa sanctions in appropriate circumstances and pursuant to notification by DHS.

We appreciate the support of Congress as we continuously work to safeguard our citizens overseas and keep all of us safe at home.

Chairman CHAFFETZ. Thank you, Ambassador.
Mr. Ragsdale, you are now recognized for 5 minutes.

STATEMENT OF DANIEL RAGSDALE

Mr. RAGSDALE. Good morning. Chairman Chaffetz, Ranking Member Cummings, and distinguished members of the committee, thank you for the opportunity to appear before you today to discuss U.S. Immigration and Customs Enforcement's efforts regarding the ongoing challenge of uncooperative countries who do not accept the return of their citizens and nationals.

The law enforcement office of ICE worked tirelessly to identify, to arrest, detain, and remove individuals to best promote national security, border security, and public safety. Our fiscal year 2015 removal statistics illustrate these efforts. Last year, we conducted 235,000 removals. Fifty-nine percent of those removals involved individuals who were previously convicted of a crime. Ninety-eight percent of those removals met one or more of DHS's immigration enforcement priorities.

To effectuate a removal, two important elements are required. First, the person must be subject of an administrative order—final order of removal, and a travel document issued by the individual's home country must be in ICE's possession.

Although a majority of countries agree to take—agree to their international obligations to accept the timely returns of their citizens, we face challenges with certain countries that systematically refuse or delay the return of their nationals. Delays in the removal process significantly challenge the limits of our detention authority following the 2001 U.S. Supreme Court's decision in *Zadvydas v. Davis*. But let me be clear. We do not release aliens we can remove.

To ensure that we are focusing our removal efforts most effectively, we have implemented an analytical tool known as the Removal Cooperation Initiative, or RCI. This tool is used to measure a country's cooperativeness with our repatriation efforts. Countries are assessed on a series of the following criteria: the average time it takes to issue travel documents, whether or not they allow ICE charter flights into their territory, and the ratio of removals versus releases for each country. This methodology was implemented last year and continues to be refined.

It is important to note that while countries may generally be cooperative, sometimes they may delay or refuse the repatriation of certain individuals. For example, El Salvador, a country that is generally cooperative, has recently delayed the issuance of a number of travel documents where there is no legal impediment to removal. As a result, we've issued 19 Annex 9 notifications to El Salvador and are working with Consular Affairs to raise this issue with El Salvador's Foreign Ministry. In sum, there are 23 countries we consider recalcitrant. In addition, we are also closely monitoring 62 others.

As you've heard, there's a variety of efforts that ICE, DHS, and the State Department use to deal with uncooperative countries, which are outlined in the memorandum of understanding between ICE and Consular Affairs signed in 2011. They include sending a letter from ICE to the nation's embassy requesting increased cooperation with the removal process, and so far this year we've

issued 103 such letters, which is more than any other fiscal year; working with the State Department to issue a demarche or a diplomatic note to the recalcitrant country; and finally, joining the assistant secretary for Consular Affairs for face-to-face meetings with Ambassadors of uncooperative nations.

Ultimately, a potential sanction could involve the Secretary of Homeland Security invoking 243(d) of the Immigration and Nationality Act. The use of visa sanctions must be weighed, however, in light of the potential impacts it could have on other foreign and domestic policy interests.

We will continue to work closely with Consular Affairs to deal with uncooperative countries, and as a result, we have seen improvement in a number of countries. For example, in January of 2016 the Government of Somalia approved 37 nationals for removal, and to date, we've seen—received 29 travel documents from Somalia, the largest number in years. On April 4, 2016, we had our first charter flight to India and removed 54 Indian nationals. In June of 2016 we successfully conducted a charter flight to the Ivory Coast, Ghana, and Nigeria, and a total of 63 nationals were removed.

Our enforcement efforts will continue to evolve, and we were constantly evaluating how best we can accomplish our mission. Without doubt, these efforts require the skillful and frequent negotiation with our foreign counterparts.

We will also work closely with DHS and the Congress to ensure we have the resources that we needed. For example, we've been working very hard to see changes in our enforcement removal operations overtime compensation system to ensure our officers are available for duty as needed. We will continue to work with the Congress, DHS, and our label partners to fix this important issue.

Thank you again for the opportunity to testify today and for your continued support to the men and women of ICE. I look forward to answering your questions.

[Prepared statement of Mr. Ragsdale follows:]

INTRODUCTION

Chairman Chaffetz, Ranking Member Cummings, and distinguished Members of the Committee, thank you for the opportunity to appear before you today to discuss the ongoing challenge of uncooperative and recalcitrant countries as we carry out the critical mission of U.S. Immigration and Customs Enforcement (ICE). I look forward to discussing our operations and highlighting our continued efforts to bring such countries back into compliance, in partnership with the U.S. Department of State (DOS).

I am very proud to represent the dedicated men and women of ICE. ICE promotes homeland security and public safety through broad criminal and administrative enforcement of approximately 400 federal laws governing border control, customs, trade, and immigration. The agency carries out its mission through four principal components: Enforcement and Removal Operations (ERO), Homeland Security Investigations (HSI), the Office of the Principal Legal Advisor (OPLA), and Management and Administration (M&A). Additionally, the Office of Professional Responsibility (OPR) investigates allegations of administrative and criminal misconduct at ICE, and performs important inspection and oversight functions across the agency. Today, ICE has approximately 20,000 law enforcement, attorney, and support personnel in all 50 states, the District of Columbia, three U.S. territories, and strategically stationed positions in 46 countries worldwide.

ENFORCING IMMIGRATION LAWS

The nearly 6,000 law enforcement officers of ERO identify removable aliens and make arrest, detention, and removal determinations in a manner designed to best promote national security, public safety, and border security while remaining consistent with the following Department of Homeland Security (DHS) enforcement priorities:

- Priority 1 includes those who pose a threat to national security, border security, or public safety (including those convicted of felonies or aggravated felonies);
- Priority 2 includes those who have been convicted of significant or multiple misdemeanors, those who have significantly abused the visa or visa waiver programs, and those apprehended who unlawfully entered the United States after January 1, 2014; and
- Priority 3 focuses on those individuals who have been issued a final order of removal on or after January 1, 2014.

ERO works to identify foreign nationals who may be subject to immigration enforcement actions in a number of ways, including working with our federal, state, and local law enforcement partners to identify, locate, arrest, and remove convicted criminal aliens who pose a threat to the public. Throughout the process, ERO works closely with ICE OPLA, which represents the Department in removal proceedings in the immigration court system, administered by the U.S. Department of Justice's (DOJ) Executive Office for Immigration Review (EOIR). Once individuals are ordered removed by EOIR immigration judges, it is ICE's responsibility to execute those orders, which includes obtaining the necessary travel documents from the countries to which they are being returned.

The revised priorities noted above have intensified ICE's focus on removing aliens convicted of serious crimes as well as public safety and national security threats, and recent border entrants. ICE's Fiscal Year (FY) 2015 removal statistics illustrate our commitment to ensuring that individuals who pose a threat to public safety are not released from ICE custody, and our review processes demonstrate ICE's commitment to public safety.

In FY 2015, ICE conducted 235,413 removals: 59 percent of all ICE removals, or 139,368, involved individuals who were previously convicted of a crime. Of the 96,045 individuals removed who had no criminal conviction, 94 percent, or 90,106, were apprehended at or near U.S. borders or ports of entry. The leading countries of origin for removals were Mexico, Guatemala, Honduras, and El Salvador.

ICE continued to prioritize its removals in FY 2015 by focusing on serious public safety and national security threats, increasing by 3 percent over FY 2014 the percentage of removals that involved convicted criminals. More specifically, of the total ICE removals, 86 percent (202,152) fell into Priority 1, which includes national security and public safety threats; 8 percent (18,536) fell into Priority 2, which includes individuals convicted of serious or multiple misdemeanors; and 4 percent (9,960) fell into Priority 3, or those who received a final order of removal on or after January 1, 2014. Thus, 98 percent of all ICE removals met one or more of ICE's stated immigration enforcement priorities.

While ICE remains firmly committed to enforcing the immigration laws effectively and sensibly, ICE does face significant challenges in obtaining travel documents from some of its foreign partners, which are necessary to effectuate the removal of individuals ordered removed from the United States.

DEALING WITH RECALCITRANT AND UNCOOPERATIVE COUNTRIES

The removal process is impacted by the level of cooperation offered by our foreign partners. As the Committee is aware, in order for ICE to effectuate a removal, two things are generally required: (1) an administratively final order of removal and (2) a travel document issued by a foreign government. Although the majority of countries adhere to their international obligation to accept the return of their citizens who are not eligible to remain in the United States, ICE faces unique challenges with those countries that systematically refuse or delay the repatriation of their nationals. Such countries are considered to be uncooperative or recalcitrant, and they significantly exacerbate the challenges ICE faces in light of the U.S. Supreme Court's decision in *Zadvydas v. Davis*, 533 U.S. 678 (2001).

In *Zadvydas*, the Court effectively held that aliens subject to final orders of removal may generally not be detained beyond a presumptively reasonable period of 180 days, unless there is a significant likelihood of removal in the reasonably foreseeable future. Regulations were issued in the wake of *Zadvydas* to allow for detention beyond that period in a narrow category of cases involving special circumstances, including certain terrorist and dangerous individuals with violent criminal histories. Those regulations have faced significant legal challenges in federal court. Consequently, ICE has been compelled to release thousands of individuals, including many with criminal convictions, some of whom have gone on to commit additional crimes.

Determining Whether a Country is Uncooperative or Recalcitrant

Countries are assessed based on a series of tailored criteria to determine their level of cooperativeness with ICE's repatriation efforts. Some of the criteria used to determine cooperativeness include: hindering ICE's removal efforts by refusing to allow charter flights into the country; country conditions and/or the political environment, such as civil unrest; and denials or delays in issuing travel documents. This process remains fluid as countries become more or less cooperative. ICE's assessment of a country's cooperativeness can be revisited at any time as conditions in that country or relations with that country evolve; however, ICE's current standard protocol is to reassess bi-annually. As of May 2, 2016, ICE has found that there were 23 countries considered recalcitrant, including: Afghanistan, Algeria, the People's Republic of China, Cuba, Iran, Iraq, Libya, Somalia, and Zimbabwe. As a result of their lack of cooperation, ICE has experienced a significant hindrance in our ability to remove aliens from these countries. In addition, ICE is also closely monitoring an additional 62 countries with strained cooperation, but which are not deemed recalcitrant at this time.

Negative Impact on ICE Resources and Public Safety

DHS as a whole, and ICE specifically, takes very seriously its mission to remove foreign nationals in a timely and efficient manner and any challenges associated with limitations on the ability to do so. As a result, DHS works both directly with foreign governments and through DOS to improve cooperation with countries that systematically refuse or delay the repatriation of their nationals.

Resource Implications

Whether a foreign government wholly refuses to take back one of its nationals or simply refuses to take back its nationals in a timely manner, there are significant resource implications for ICE.

ICE begins the removal process with requests for travel documents to the appropriate foreign government. If a travel document is not issued and reasonable efforts to secure the issuance of such a document are not fruitful, then ICE can take action pursuant to its own authorities, such as recommending non-inclusion of recalcitrant countries on the H-2 Eligible Countries List as well as, in appropriate circumstances, sending a letter to the nation's Embassy in the United States seeking cooperation with the removal process. Such letters, referred to as "Annex 9 letters," are issued to countries that are International Civil Aviation Organization (ICAO) Member States. Pursuant to Article 37 of the Convention on International Civil Aviation, signed at Chicago on December 7, 1944, in order to facilitate and improve air navigation, ICAO promulgates international standards and recommended practices addressing, *inter alia*, customs and immigration procedures. ICE has sent 125 such letters as of July 7 of this fiscal year, which is more than any other year on record.

Another possible tool is ICE requesting the issuance of a Demarche to the recalcitrant country by DOS. If that does not achieve results, a joint meeting between ICE, DOS Consular Affairs, and the Ambassador of the uncooperative nation can occur. Within the last two fiscal

years ICE has worked with DOS to issue 17 Demarches to Iraq, Algeria, Bangladesh, Cape Verde, Ivory Coast, Eritrea, The Gambia, Ghana, Guinea, Liberia, Mali, Mauritania, Niger, Sierra Leone, Senega, Cuba and St. Lucia. Although Algeria remains on the list of recalcitrant countries, the Algerian government committed to address the issue and has issued a handful—but not all—or the required travel documents since then.

Responses to a country's recalcitrance are, in part, guided by a Memorandum of Understanding (MOU) between ICE and DOS Consular Affairs, signed in April 2011. Pursuant to this MOU, ICE continues to work through U.S. diplomatic channels to ensure that other countries accept the timely return of their nationals in accordance with international law by pursuing a graduated series of steps to gain compliance with the Departments' shared expectations. The measures that may be taken when dealing with countries that refuse to accept the return of their nationals, as outlined in the 2011 MOU, include:

- issue a demarche or series of demarches;
- hold a joint meeting with the Ambassador to the United States, Assistant Secretary for Consular Affairs, and Director of ICE;
- consider whether to provide notice of the U.S. Government's intent to formally determine that the subject country is not accepting the return of its nationals and that the U.S. Government intends to exercise authority under section 243(d) of the Immigration and Nationality Act (INA) to encourage compliance;
- consider visa sanctions under section 243(d) of the INA; and
- call for an interagency meeting to pursue withholding of aid or other funding.

While this process sets forth a general protocol, specific steps—including the invocation of visa sanctions under INA section 243(d)—are considered by the DHS Secretary in consultation with DOS. Section 243(d) states that, upon notification from the Secretary of Homeland Security, the Secretary of State shall direct consular officers to stop issuing visas to immigrants, nonimmigrants, or both, from countries that unreasonably delay or fail entirely to repatriate their nationals. As such, use of this authority must be considered in light of both the potential impact it could have on U.S. foreign and domestic policy interests, particularly with respect to adverse effects on bilateral relations with a foreign partner, and whether visa restrictions will be an effective tool in gaining the country's compliance. In addition to the ICE and DOS MOU-guided process outlined above, on occasion, Secretaries Johnson and Kerry have also personally engaged with their foreign counterparts to underscore the need for compliance with international repatriation obligations.

Public Safety

There is a clear public safety threat posed to the United States by the failure of uncooperative or recalcitrant countries to accept the timely return of their nationals who have committed crimes in this country. Such countries' unwillingness to comply with their international obligations to promptly facilitate repatriation of their nationals, coupled with ICE's obligation to comply with the Supreme Court's *Zadvydas* decision, has required ICE to release thousands of dangerous individuals, including criminal aliens, many with criminal convictions for serious crimes like arson, assault, property damage, extortion, forgery or fraud, homicide, kidnapping, weapons offenses, embezzlement, controlled substance offenses, and sexual

offenses. Sadly, ICE records indicate a number of these aliens have gone on to commit additional crimes while in the United States.

Recognizing this public safety threat, in recent years, ICE has worked aggressively to secure some progress in removing aliens to recalcitrant countries, albeit slow and with significant costs in terms of time and resources. In FY 2015, ICE was able to remove convicted criminals to ten countries, including Uganda and Sudan, which did not previously permit ICE to conduct removals by charter flight. Through negotiations, ICE was able to remove individuals to those countries via ICE Air Operations charters for the first time. This effort allowed ICE to remove an individual to Uganda convicted of selling drugs, resisting arrest, driving under the influence, and criminal trespassing, and another individual to Sudan who had been convicted of an attempted bombing. ICE remains firmly resolved to engage all foreign counterparts that deny or unreasonably delay the acceptance of their nationals. We continue to address foreign government representatives, both in Washington, D.C. and abroad, along with interagency partners, in an effort to improve cooperation with ICE removals.

However, despite ICE's continued efforts, there are a number of factors that constrain ICE's ability to improve the number and timeliness of repatriations to recalcitrant or uncooperative nations. Such factors include limited diplomatic relations with some countries; the countries' own internal bureaucratic processes, which foreign governments at times utilize to delay the repatriation process; and the views of some foreign governments that repatriation is simply not a priority.

CONCLUSION

ICE will continue to play a critical role in fulfilling DHS's national security, border security, and public safety mission. Thank you again for the opportunity to testify today and for your continued support of ICE and its critical mission. I look forward to answering your questions.

Chairman CHAFFETZ. Thank you. I will now recognize myself for 5 minutes.

I want to put up a slide.

[Slide.]

Chairman CHAFFETZ. This is a document that we entered into the record, Weekly Departure and Detention Report: 953,507 people, aliens with final orders of removal that remain in the United States without actually being deported. Is that right?

Mr. RAGSDALE. Sir, I believe that is a number that is an aggregate number over many, many years. It is on folks we consider under docket control that have seen either immigration judges or have filed Federal appeals on removal cases.

Chairman CHAFFETZ. Okay. So let's define this. This is on page 2 of this report, okay? And it is the ERO post-final order docket. It is that many people that have been ordered by a judge at some level to leave the country to be deported and that are still in the United States.

Mr. RAGSDALE. I would again suggest those—that number includes people under docket control. Some of those people may have in fact withholding of removal or some protection from removal

Chairman CHAFFETZ. I mean, it is your number so I am going to assume that it is true.

Mr. RAGSDALE. So I think it very well might be accurate, but what I'm suggesting is that number does not mean every single one of those people are amenable to removal as of right now. They may be granted —

Chairman CHAFFETZ. What do you mean amenable to removal?

Mr. RAGSDALE. In other words, someone who may be a country of some—let's just say Syria where they have a criminal record and could not get asylum, they still may be granted a different form of protection. They would be included in that number, but they may not be removed to Syria.

Chairman CHAFFETZ. But they were ordered to leave the country, correct?

Mr. RAGSDALE. You—well, it's a little more complicated than that. You do get a removal order, but there is a restriction on where in the world you can be removed. So you may only be a citizen or national of Syria —

Chairman CHAFFETZ. The reality is they are in the United States, they are ordered by a judge to be removed from the country, and they haven't been yet, correct?

Mr. RAGSDALE. No. It's not quite that simple. So, in other words, you get a removal order, but we may not remove you to the country from where you're from.

Chairman CHAFFETZ. But they are not in this country legally, they are ordered removed, so in your Syria example, then what do you do?

Mr. RAGSDALE. That is why they're included in that number and that is a —

Chairman CHAFFETZ. So you just let them stay in the United States?

Mr. RAGSDALE. Unless there is a third country we can remove them to.

Chairman CHAFFETZ. Yes, they are here in the United States, and that is the problem.

Did I hear you correctly? You said we do not release aliens we can remove?

Mr. RAGSDALE. That's exactly right.

Chairman CHAFFETZ. Do want to say that again on the record really? You do not release aliens you can remove?

Mr. RAGSDALE. In cases where we have a final removal orders and a travel document, those people will be removed.

Chairman CHAFFETZ. And a travel document?

Mr. RAGSDALE. Of course. It's a two-part process.

Chairman CHAFFETZ. Okay. Let's go to the actual removal here. I'm going to take two case studies, okay, Ambassador? I want to look at Guinea and I want to look at Liberia, small numbers. And I guess I just don't understand why you haven't tried to do what the law says you have to do. We give Liberia \$125 million in aid, \$125 million. American people take out of their pockets and give to the country of Liberia. That is what we are going to do in 2016.

They have, according to this document that I have from—four noncriminal immigration violators, 52 convicted criminals, and from just this year alone there is another 29. Why not go back to Liberia and say, you know what, you are taking these people back or you are not getting any more visas? Why are you not doing that?

Ms. BOND. Sir, we are meeting with the Liberians. We have met with their Ambassador here in Washington. I have met with senior officials in their capital. They have heard from our Ambassador. They have gotten the message very clearly —

Chairman CHAFFETZ. But they are not doing it, right? They are not doing it.

Ms. BOND. And what we're seeing right now is that they are removing criminal aliens not at the rate yet that we want to see, but departures in July, departures promised in August, and a pledge that the rate will increase as we move into September. So it's —

Chairman CHAFFETZ. We have 52 —

Ms. BOND. They are not doing what we want to see, but what we are seeing is some slow movement toward where they need to be.

Chairman CHAFFETZ. Okay. We have 52 Liberians, convicted criminals that are here illegally. The statute says you shall. There is no option. My guess is you would speed it up a whole lot—if it was up to me, yes, you would say no more visas, no more people coming to the United States, and that \$125 million in aid, that check is going to sit here until you take these 52 people back.

Ms. BOND. So —

Chairman CHAFFETZ. You know what, your hand will be strengthened in your negotiations around the world if you do at every once in a while. This is law. This is not some Jason Chaffetz theory. This is the law, and I don't see you doing it at all in any country.

Ms. BOND. I agree with you, sir, that the fact that we have that provision of the law and that there is the real possibility for any recalcitrant country to be facing visa sanctions or other sanctions is a very, very powerful tool and —

Chairman CHAFFETZ. Use it. Use it.

Ms. BOND.—what we're seeing —

Chairman CHAFFETZ. Pull the trigger.

Ms. BOND. What we're seeing is, to take the case of Liberia, they do take this seriously, and they do understand that if we aren't seeing steady and increasing action on this issue —

Chairman CHAFFETZ. Why shouldn't they take them all? Steady, increasing, they are working with us. You have got criminal aliens, take them back. It is 52 people. But you know what, when one of those 52 people commits a crime, a rape, a murder, a DUI, that is on you because they shouldn't be here in the United States of America. You cannot look those people in the eye, Americans who pay their taxes, who work here, who are citizens. And you are so worried about playing nice instead of implementing the law. These people are committing more crimes. I just got through listing all these people, everything from murder to DUIs to sexual abuse. Get rid of them.

Ms. BOND. Our goal is completely the same as yours. We want these people out of the country. We want —

Chairman CHAFFETZ. Then get them out. You have every tool at your disposal. You have got \$125 million in aid. You have got the law on your side that says we do not need to give anybody else a visa, and you just tell them, somebody applies for the visa, we are not accepting those until you accept these 52 people.

Ms. BOND. All right. And in the process of getting a routine and efficient and swift process underway, that is what we're working on with Liberia and with these other countries.

Chairman CHAFFETZ. It's not working.

Ms. BOND. And they do understand that —

Chairman CHAFFETZ. I have made my point. I have gone past my time.

Ms. BOND. Thank you.

Chairman CHAFFETZ. Let me now recognize the ranking member Mr. Cummings.

Mr. CUMMINGS. I want to make sure we are clear, the list that the chairman is reading from, can you tell me about these crimes? He referred to Liberia and, I mean, a whole list of countries here. I don't know why he picked those two, but are these all serious crimes? I mean, I am just curious. Any crime is bad, but I am told it ranged from—do you know?

Mr. RAGSDALE. So I don't know in great specificity. There are a range of crimes. I mean, there is no question that, as Secretary Bond said, it is in our interest to remove every single person we can when the removal order is final and we have a travel document. So we are working very much towards the same goal.

Mr. CUMMINGS. You had said earlier, Mr. Ragsdale, something about some country may have a third country that would be willing to accept folks. How many third countries do we have like that?

Mr. RAGSDALE. It's going to depend on the person's individual circumstance. Dual nationality is something that happens with some frequency, so we certainly examine in a descending order that if there is a country of nationality or last habitual residence that we could possibly remove someone to who will accept them, our officers absolutely pursue that.

Mr. CUMMINGS. But let's put aside dual nationality. I mean, are there countries that seem to be more open to accepting these folks

Mr. RAGSDALE. It is very —

Mr. CUMMINGS.—where their home country won't?

Mr. RAGSDALE. It's rare.

Mr. CUMMINGS. I see. Now, listing to testimony in April about the murder of Casey Chadwick, which was heartbreaking, I was disappointed to learn that ICE never alerted the State Department about the 6-month struggle to deport Jean Jacques, the person who was later released and then murdered Ms. Chadwick. State has a strong bilateral relationship with Haiti, and I would think State could have leveraged diplomatic relations to facilitate Mr. Jacques' removal. Why wasn't the State Department notified by Jean Jacques' case about it?

Mr. RAGSDALE. So, Ranking Member, I absolutely agree, it was a tragedy. And certainly having the IG look at this would certainly provide us some—with some things to think about and improve on.

What I would say is working with Consular Affairs is something we probably should have done. However, we did work with our ERO and ICE officers in Santa Domingo, which cover the island of Hispaniola, and we did work with the State at post to try to get travel documents. So you are absolutely right that there are some things that we will look hard at in light of the Jean Jacques case, but I would also note that the IG found that while there could have been other things that ICE may have done, it may not have changed the outcome.

Mr. CUMMINGS. We need to learn from the example, would you agree?

Mr. RAGSDALE. Absolutely.

Mr. CUMMINGS. So in moving forward, a case involving someone with a violent criminal history and final orders of removal gets handled effectively and efficiently. So let me ask you this. How frequently does ICE alert State that it is struggling with an individual case of removal? I mean, does that happen often?

Mr. RAGSDALE. So we have monthly meetings between Consular Affairs and ICE, so there is a steady rhythm of not only correspondence but interaction on all of these cases. The—this is a symbiotic partnership that we are working very closely together. This is what produced the letters from the two Cabinet Secretaries. This is why we signed the MOU 5 years ago. This has been a—you know, a work in progress.

Mr. CUMMINGS. So what does that process look like? You sit down and you have a list? I mean, tell me about it real quick.

Mr. RAGSDALE. So, you know, as you can imagine, for effective border control we're talking about individuals. So, you mean, the idea and the idea of the tool that you mentioned, you know, we look at this with some degree of analysis for some broad trends. But every single case requires both a final removal order and a travel document. But we —

Mr. CUMMINGS. So I understand then from ICE's enforcement and removal operations they must alert ERO headquarters at the 75-day mark when they have not successfully repatriated a detainee. I also understand that most of ICE's communication with

State about these countries comes from ERO headquarters. Mr. Ragsdale, do you have a manual or a clearly outlined guidance for your ERO field office agent so they know when they should reach out to State about an individual case?

Mr. RAGSDALE. So it actually is a hybrid approach. There are some field offices where there are consular officers from foreign governments located in that city. So in those cases our local office may work directly with a consular from that foreign government. And while they may notify headquarters, it's not necessarily something that headquarters will do for them. Absolutely, though, headquarters is the clearinghouse for our work with Consular Affairs, and we do do that work.

And then lastly, we do have a manual that provides guidance to our field offices. That needs to be updated, and I think that's one of the things that we've seen out of the IG report.

Mr. CUMMINGS. Yes, I tell you that your responses don't instill a lot of confidence that a Jean Jacques won't slip through the cracks again.

Mr. RAGSDALE. I would say, you know, surprisingly that even if you look at the L.A. Times editorial on the Jean Jacques case, which, again, we often don't get what I'll say is a lot of balanced coverage in many papers, this was not a question of somebody not doing their job. This is a question of the Haitian Government not accepting someone who we believe was Haitian that they did not issue travel documents on.

Mr. CUMMINGS. All right. Okay. I understand the need for flexibility, but ICE needs to have a clearer guidance, would you agree, for when and how and whether to raise concerns about an individual case with State. What is ICE doing to provide clearer guidance? You know, what happens to—a lot of situations I find, an employee/employer, all kinds of relationships, there are expectations, but the expectations are never communicated and so you have got people assuming that other people are doing things, and then when the time comes for the rubber to meet the road, we discover there is no road.

Mr. RAGSDALE. Well, I—listen, I can certainly say with great confidence we would not have removed 235,000 individuals last year if our folks didn't know how to remove people. And I will also tell you there is no impact —

Mr. CUMMINGS. Can we improve on guidance? I guess that is what I am trying to get to.

Mr. RAGSDALE. We—absolutely.

Mr. CUMMINGS. So —

Mr. RAGSDALE. No question what to make sure that our officers know about every —

Mr. CUMMINGS. How are you going to do that?

Mr. RAGSDALE. We are taking a look at revising that manual and providing additional training as necessary.

Mr. CUMMINGS. Assistant Secretary Bond, I just want to ask you a question or two. The ERO officers in Jean Jacques' case told the IG that they believed State would not get involved in an individual case unless the individual has committed acts of terrible human rights violations. Is that true?

Ms. BOND. No, sir, that is not true.

Mr. CUMMINGS. What is true?

Ms. BOND. What is true is that we work very, very closely with ERO. We know the staff there very well and they know us, and any request from them for us to take a look at a case to see if we could assist on a particularly difficult, intractable case, we would always respond.

Mr. CUMMINGS. Well, let me ask you this and —

Ms. BOND. And so the person who said that was mistaken to believe that we would not have been responsive.

Mr. CUMMINGS. This is my last question because I am running out of time. Do you believe that the State Department could be effective in using diplomatic engagement in individual cases where you have a removable individual with a violent criminal history?

Ms. BOND. I think in every single case like that it's worth a try. I can't guarantee results in every case, but there is absolutely no reason why we wouldn't and shouldn't be engaging and bringing—especially in a case like this one where you're talking about a murderer—to bring the case to the attention of the government and say

Mr. CUMMINGS. Well —

Ms. BOND.—let's find a way to fix this.

Mr. CUMMINGS. I just want to tell you I think we can do better, and I think we need to go back again and try to figure out how again to be more effective and efficient in what we are doing. We can do better.

With that, I yield back, Mr. Chairman.

Chairman CHAFFETZ. Thank you. As I recognize Congressman DeSantis here, I would just like to request the A files if I could. And not to pick on any particular country, but the numbers are small enough that it seems doable. But there were seven convicted criminals who were nationals of Guinea who were released from ICE under Zadvydas. In 2015, an additional 20 convicted criminals from Guinea were released under Zadvydas. Thus far this year 29 criminal aliens from Liberia were released under Zadvydas, as were an additional 52 criminals from Liberia last year.

To assist the committee in understanding the nature of the offenses involved in these cases, we would appreciate it if you would provide to the committee, Mr. Ragsdale, within, say, 30 days of this hearing the so-called A files for those aliens. Can we achieve that?

Mr. RAGSDALE. I—we will certainly make every effort to meet that deadline.

Chairman CHAFFETZ. Okay. And, Mr. Cummings, if he wants to add another country or two to get a cross-section, we are not trying to pick on any particular one, but I think it would provide—and we will follow up if there is additional —

Mr. CUMMINGS. Yes, Mr. Chairman, I am so glad you said that because I would like to add a country or two, but I will let you know. I want to study this list —

Chairman CHAFFETZ. Well, we will follow up —

Mr. CUMMINGS.—a little bit more.

Chairman CHAFFETZ.—and I picked two at random. We will let Mr. Cummings pick whatever he would like. And if you could help us with the A files on those, that would be appreciated.

Mr. RAGSDALE. Yes, sir.

Chairman CHAFFETZ. Thank you. I would now like to recognize the gentleman from Florida, Mr. DeSantis, for 5 minutes.

Mr. DESANTIS. Thank you, Mr. Chairman.

Mr. Ragsdale, it is frustrating to hear your responses about the Casey Chadwick murder. I mean, Jean Jacques came here illegally from Haiti in the '90s, was convicted of attempted murder, served 17 years in prison, obviously had no right to be here, was released first after serving a sentence and was not deported. And within a few months after being turned loose on the public, he murdered Casey Chadwick and stuffed her body in a closet. This is not something that should be acceptable.

Now, you said maybe nothing could have been done, the IG said. I don't accept that. I mean, you are saying you can't even get a travel document in 5 months?

Mr. RAGSDALE. So I don't think that's exactly what I said. What I said, the IG found that we certainly could have done different things but the outcome may not have changed. We went to the Haitian Government with a request for a travel document for Jean Jacques. They said he could not prove he was of Haitian nationality, and they refused to issue. It's very —

Mr. DESANTIS. Is that true? Could you prove it?

Mr. RAGSDALE. We believe he is Haitian, but I will also tell you that it certainly could be the situation—I'm not saying it is in this case—but someone of Haitian decent born in the Dominican Republic would present every—much as —

Mr. DESANTIS. Did you try with the Dominican Republic?

Mr. RAGSDALE. Well, as you know, there's been some challenges between the Dominican Republic and Haiti in terms of nationality concerns. So we did not try to remove him to the Dominican Republic.

My point is simply this: We made efforts, and there's no question we will look at the IG's report and take every best practice and every —

Mr. DESANTIS. But you didn't —

Mr. RAGSDALE.—potential solution.

Mr. DESANTIS.—go to the State Department and say Haiti is not being cooperative here, and you didn't seek them to notify them under section 243 delta, correct?

Mr. RAGSDALE. ICE does not have authority to issue sanctions under 243(d) —

Mr. DESANTIS. No, no, no, no, no. I know that. What happens is when the Department of Homeland Security notifies the State Department when the statute was—when it was Attorney General. Now since we have had changes in agencies, it is now the Department of—once that notification is made, then that triggers their duties. And my point is you guys did not issue a notification that Haiti was being unreasonable in this case.

Mr. RAGSDALE. That's right. And what I will suggest to you —

Mr. DESANTIS. And had you done that, maybe there would have been a different outcome.

Mr. RAGSDALE. Perhaps. That is absolutely true. What I will say is we did work with the State Department at post in Santo Domingo —

Mr. DESANTIS. I know, but that—clearly, that is—I mean, I appreciate that but that is going kind of the midlevel of the bureaucracy. If the government itself is not going to be cooperative, we have certain tools that can be used, and this is one of the tools that, if it was used, we may have had a different outcome. And I think that it is not unreasonable to say that if someone comes to the country illegally and then gets convicted of attempted murder, then it should be a very high priority of the government to get that person out of our country because of the high likelihood that they are probably going to reoffend when they go back in.

And I am also frustrated because Casey's mother Wendy Hartling, she said very recently that she has not received any answers from ICE, that your agency has not been very helpful with helping her get her head around what happened. Why is that?

Mr. RAGSDALE. I am not familiar with us not providing her information as much as we can under the law. I will certainly take that back and find out if we have a pending inquiry from her. But —

Mr. DESANTIS. Let me ask you this. How many times in the last 7 years has DHS actually done a notification for State under section 243 delta? Have there been any?

Mr. RAGSDALE. I do not believe we've done it at all.

Mr. DESANTIS. Okay.

Mr. RAGSDALE. But I would note, though, again, that we signed the MOU 5 years ago, you've seen the correspondence from Secretary Johnson to Secretary Kerry and the response. The Secretary, in front of Senate Judiciary last week, you know, noted that this is on his radar. So it is not from our lack of interest in raising recalcitrant countries —

Mr. DESANTIS. Well —

Mr. RAGSDALE.—as appropriate.

Mr. DESANTIS.—right, but we have tools and we want to use, and what we have is we get these reports—you guys give us the reports—the number of people here illegally, and you actually enumerate the crimes that they committed. And so these are people that have been in ICE custody and yet they end up committing crimes. And it is varied. It varies from murder, it varies from things like theft and robbery, DUI. I would say all those are menaces to the public in obviously varying degrees. And so that is there.

Let me ask you this, Ambassador Bond. You said in your testimony that State has and will implement visa restrictions when necessary, but you wanted to make sure that was the right approach depending on the circumstances. But doesn't the statute mandate that if you do receive that notification from the Department of Homeland Security that you are required to suspend visa issuances?

Ms. BOND. Yes, it does.

Mr. DESANTIS. Okay. And just to make sure it is consistent with what Mr. Ragsdale says, has the State Department received any notification from DHS over the last 7 years under that section?

Ms. BOND. We have not received the formal message from the Secretary of Homeland Security directing that this be triggered.

Mr. DESANTIS. Okay. So here is the thing. We have tools that Congress has legislated. I think you guys need to use them. And

obviously it goes to the Department of Homeland Security first because that really triggers your responsibility at State. But those are what Congress did. I think it would be tremendously effective if you did it. I think the countries would be very much more likely to fall in line. You would be using leverage, and I think we could engineer better outcomes for the American people.

But clearly, law enforcement—I wish we could prevent every single crime that happens here. The fact of the matter is people are going to commit crimes; you have got to hold them accountable. But when people are here illegally and they have actually been convicted of crimes and then they are released rather than being deported, well, that is on the government and that is something that could be prevented. And I think people like Casey Chadwick, these tragic stories need to come to an end.

And I yield back.

Mr. RUSSELL. The gentleman's time has expired.

The chair now recognizes the gentleman from Massachusetts, Mr. Lynch, for 5 minutes.

Mr. LYNCH. Thank you, Mr. Chairman. I thank the witnesses for being here.

You know, too often, the wider discussion in Congress about immigration ends up in a shouting match between what I would loosely describe as the open-borders crowd against the throw-them-all-out crowd, those extreme ends of this debate. This does not help. This does not help. When you have got 86,000 criminals here illegally being released into the general population, you have got situations like Ms. Chadwick, you know, and my heart goes out to their families. I cannot imagine the anguish that they have gone through and they are still looking to have their questions answered.

You know, we have a very basic duty in this country to protect the people, to protect the American people. And, you know, cases like Ms. Chadwick just infuriate, infuriate the American people, and rightly so. And it looks like we can't get our act together here. You know, I understand, you know, that ICE didn't notify the State Department about its difficulty in obtaining travel documents for Mr. Jacques, is that right?

Mr. RAGSDALE. It is correct that we did not notify —

Mr. LYNCH. Okay. So —

Mr. RAGSDALE.—Consular Affairs on that particular case.

Mr. LYNCH.—it is not just about the one case, but this is not helping. And, you know, you got people that just see a case like that and say that is it, no more immigration. We are not going to have that. We have got to keep our people safe. It informs their opinion of what is going on here. It also informs their opinion of the job that the government is doing to keep them safe. It is pathetic because, you know, if we are going to have a—and we need a coherent, a robust, a sane, a sustainable immigration policy, and we are never going to get there if you keep doing things the way you are doing it.

We have to at some point at least acknowledge that we should not allow foreign countries to import dangerous criminals to our country. There is a cost-shifting there that is put on the American taxpayer, and there is also a perverse incentive for those countries

to do that because they can get rid of their problems by sending them to us, you know?

I want to explore something that you mentioned, Mr. Ragsdale. You know, we have got a situation in Germany where they ended up with 1.4 million Syrians and refugees from other countries, and so they have worked out an agreement with Turkey on deporting a certain number of those people. And there is sort of a third-party agreement, like you talked about. Are there any countries like that that we can deal with where people come in illegally—and, you know, unfortunately we are at this point because of the logjam we have got here. I think that that solution of just telling people we are not going to accept any more visas until you take these people back.

And by the way, I would like a list. I would like a list of the countries that are recalcitrant. I want to know how many people they are refusing to take. And I think that is information that Congress should have when we make foreign appropriations because we can zero out foreign aid to countries that don't cooperate.

If you are not going to do it at your level, I know there are Members of Congress who will embrace that duty if it not being done. And I bet you we will get great response. If we cut off funding to countries that are not doing the right thing and not taking back criminals from their own countries who are here illegally, I think in a heartbeat they will respond to that. And unfortunately, it looks like that—it is a blunt tool and I don't like it, but if it is, you know, the only tool in the toolbox, then I guess we have got to use it. Tell me about third-country agreements, Mr. Ragsdale.

Mr. RAGSDALE. Well, I do not think in the United States at the moment has the type of program you are talking about with the EU and Turkey. However, DHS has worked with some in-country processing in Central America where we are looking to find refugees in the tri-border area as opposed to having them make an illegal trip north.

And then from the investigative side, we have worked to dismantle the transnational criminal organizations that are bringing folks from our southern neighbors to the United States illegally. So I mean there is much work that is getting done on both fronts. We are not simply in a completely defensive posture.

However, once people get to the United States and the law—the Immigration and Nationality Act allows people to apply for protection when they are here, they have to go through the entire process. And if they are unsuccessful, we will have to go back to that country to get a travel document for them to remove them.

Mr. LYNCH. Okay. So can we make an agreement here that this committee, Oversight, is going to get notice of when you have got a removal order and you are requesting travel documents? We just need to know that. You know, since it is a two-step process, we need to know when both of those happen.

Mr. RAGSDALE. Yes, but so I understand, for which—I mean, there's 23 recalcitrant countries that are—that we are monitoring.

Mr. LYNCH. Okay.

Mr. RAGSDALE. I mean, I'm happy to provide the data associated with that.

Mr. LYNCH. Yes. How about we just work with those 23 countries, and that would be a good start.

Mr. RAGSDALE. Yes, sir.

Mr. LYNCH. Thank you. I yield back.

Mr. RUSSELL. The gentleman yields back. The chair now recognizes the gentleman from Georgia, Mr. Hice, for 5 minutes.

Mr. HICE. Thank you, Mr. Chairman.

It looks to me like we have got frankly a double failure of our government. On the one hand, we have got the State Department failing to force nations to accept their own citizens back who are criminals here in our country; and then secondly, we have got the Homeland Security failing to notify local law enforcement when these individuals are released into our streets.

And, you know, all of this just puts the American public at risk. When it all comes down to it, that is what is going on here, which is absolutely unacceptable to me and to millions of Americans, probably everyone in here. And our job is to keep the public safe, and we are not doing it here.

Let me kind of walk through the process. Let's just say an individual who is illegally in this country commits a sex offense in this country, gets convicted, serves time, then gets turned over to ICE to be deported except ICE cannot deport them because their country of origin does not want to accept them. So at that point we have an individual who is released back on our streets.

Now, as already has been discussed, we have a solution here, and that is to deny visas from these countries until these countries accept back their citizens who have committed crimes in our country. It doesn't seem to me frankly to be rocket science. We could fix this problem relatively quickly if we would just abide by the law that we have to work with. We have the tools on hand it seems to me. And this is the method that Congress has created, and yet it is not being utilized. So, again, this putting the American people at risk.

Now, let me go back to the example here. Let's just say we have a sex offender. Let's look at it from two perspectives. On the one hand we have an American citizen who commits a sex crime. They serve their time, they are released at some point. When they are released, local law enforcement is notified that they are released, and they are placed on a national sex offender registry so we know who they are, where they are located. Law enforcement and communities are aware. That is for an American citizen.

Now, we have someone who is illegally in this country who commits the same type of sex crime. They serve their sentence, turned over to ICE. ICE can do nothing with them so they are released. Local law enforcement is not informed, community is not informed. We have the same type of sex offender running around, no one knows who they are, where they are. There is no follow-up on them. And ICE does not have the requirement to make sure these individuals are placed on the sex offender registry, and so they are not. And this has been problematic.

I actually have introduced a bill that would require ICE to place these people on the national sex offender registry when they are released. It is H.R. 2793, the TRAC Act. I would encourage everyone to jump on board with that.

Mr. Ragsdale, let me just ask you, does the fact that ICE is not required to place these individuals on the national sex offender registry, does that mean that you cannot place them on that registry?

Mr. RAGSDALE. So, generally, the prosecuting agency, the State or the local—the municipality does not make a distinction between the person's nationality and would place them on their sex offender registry.

Mr. HICE. They are not placed on there.

Mr. RAGSDALE. That is up to the law of the prosecuting municipality. But more importantly, what we have done over the last 2 years is create a system that every time we release a criminal alien from our custody, we, in an automated fashion, notify the jurisdiction to—where that person will be released. It's called the LENS system.

Mr. HICE. That is not happening.

Mr. RAGSDALE. It is the Law Enforcement Notification system, sir. I would be happy to get you a briefing on that.

Mr. HICE. Listen, I deal with all the sheriffs in my district. Georgia has not—that is not happening. You may think it is happening, but it is not occurring.

Mr. RAGSDALE. We were just at the National Sheriffs association talking to folks about this. This is done by what they call ORI code. It's done biometrically based on the arresting agency's fingerprints. So I'd be happy to get you a brief on what we've done. We've made great progress in this area to notify local law enforcement every time someone is getting released from ICE custody who has a criminal history.

Mr. HICE. The sex offenders are not being placed on the national sex offender registry.

Mr. RAGSDALE. ICE —

Mr. HICE. They are being released. Local law enforcement are not aware of these individuals, communities are not aware of these individuals, and you ought to take responsibility to make sure that they are registered at least.

Mr. RAGSDALE. We would be happy to work with you on this. I think obviously information-sharing in law enforcement is of critical import and can only benefit the American public.

Mr. HICE. Absolutely —

Mr. RAGSDALE. I completely agree.

Mr. HICE.—and it is not occurring.

Mr. RAGSDALE. I'd be happy to get you a brief —

Mr. HICE. Mr. Chairman —

Mr. RAGSDALE.—on what we've done —

Mr. HICE.—I see my time is expired.

Mr. RAGSDALE.—over the last 2 years.

Mr. RUSSELL. The gentleman yields back.

The chair now recognizes the gentleman from California, Mr. Lieu, for 5 minutes.

Mr. LIEU. Thank you, Mr. Chair.

The United States of America is the world's premier superpower. I find it absurd that we cannot return foreign nationals that have been convicted of heinous crimes back to their home country.

The case of Jean Jacques, the Haitian foreign national, it is stories like that I agree with Congressman Lynch that makes it hard

for those of us who want to support comprehensive immigration reform to get that through because it is these stories that make the American people very angry and just make our country want to shut down in terms of immigration.

And as you know, in that case Jean Jacques was convicted of attempted murder, served his time, released, and then ICE tried to get him back to Haiti, the Haitian Government refused to accept him. He then kills Casey Chadwick.

It is clear to me ICE should have notified the State Department. That was a failure. But I find it much more disturbing the reason ICE did not do this. And in this New York Times article in July, I am going to give you the reason. ICE officials say that they did not raise the case with the State Department because they did not believe it would intervene to encourage a foreign country to accept a violent offender like Jacques.

So what this is telling me is that one entire agency of the Federal Government, ICE, believes the State Department is so weak, so incompetent on this issue that they don't think it is worth their time to notify the State Department.

So I am going to ask you some questions, Ms. Bond. Thank you for being here. Why would ICE think that? And I am thinking maybe it is because the State Department has only one time in its entire history used the tool Congress gave you to deny visas to these countries. Why is it that you have only done it one time?

Ms. BOND. You asked why would they believe that we wouldn't intervene and assist unless it was a case that involved terrorism?

Mr. LIEU. Yes, I did ask two questions. That is the first question. The second is why is it that only one time you have used the tool that Congress gave you? So there are two questions there.

Ms. BOND. I cannot account for the fact that somebody believed that because the fact is that we work so closely. We are very much a team in terms of looking for ways to support each other. ICE has the lead so we are in the supporting, but we are working together as effectively as possible on individual cases. So why someone would've had the idea that we wouldn't be responsive I simply don't know why they thought that. We would have been responsive. And

Mr. LIEU. Would you have denied visas?

Ms. BOND. So the question about, you know, why is there only one example to date of actually applying this particular case, excuse me, I think it's—in the case of Guyana—and we agree that it was very effective and we also agree that this is an important tool. We keep it in consideration at all times. It is not something that we're looking for reasons not to do.

Mr. LIEU. I think —

Ms. BOND. In the case of Guyana —

Mr. LIEU.—the sentiment of this committee on a bipartisan basis is that you are actually not looking to do it, and I think what we want is we want you to do it. We want you to make an example of a country that is recalcitrant. Just do it, and then hopefully others will listen more, right? We should make no apologies for acting like a superpower. We should use the tools that the Congress has given you and just do it.

So let's now move to foreign aid, right? It is true, isn't it, that the U.S. is the largest foreign aid donor since 1973 to Haiti?

Ms. BOND. I'm sorry. What was the question?

Mr. LIEU. Is it true that the U.S. is the largest foreign aid donor to Haiti since 1973 or about then?

Ms. BOND. That's probably true. I don't know, but I believe —

Mr. LIEU. So I understand that we have sovereign nations and Haiti doesn't have to take back its folks that commit crimes, but we also don't have to give foreign aid. And would you support reducing or eliminating foreign aid to Haiti because they are unwilling to take back their own murderers?

Ms. BOND. You know, in the case of Haiti, that is a country that is not on the list of recalcitrants. They are generally cooperative. They are not a country that is problematic in that sense. It's not typical for them to be saying in the case of particular individuals we don't think this person is Haitian. So that is an example of a situation that you have to keep trying to work with that government, but it's not a sign that you have a government that is —

Mr. LIEU. So let me just stop you there.

Ms. BOND.—deliberately saying —

Mr. LIEU. The U.S. Government clearly believed he was Haitian, right? And, you know, it is discretionary whether they want to take back their person. It is also discretionary for us whether we want to give foreign aid. So it should be the view that if our government believes a fact and we want to send that person back based on these facts and the host country doesn't take it, I think this committee wants the State Department to do some action, right, because I think it is our view that diplomacy, without the threat of consequences, is meaningless. It is just happy talk. We want you to put in some consequences. We want you to do that soon.

And my time is up. I yield back.

Ms. BOND. Thank you.

Mr. RUSSELL. The gentleman yields back.

The chair now recognizes the gentleman from Wisconsin, Mr. Grothman, for 5 minutes.

Mr. GROTHMAN. Yes. Mr. Ragsdale, first question for you. When did you get your position as deputy director of Immigration and Customs?

Mr. RAGSDALE. Since June of 2012.

Mr. GROTHMAN. June of 2012. Okay. And, Ambassador Bond, your position previous to being the assistant secretary was—did I read that you are a former Ambassador to an African country?

Ms. BOND. Yes, immediately prior to becoming the assistant secretary, I was the deputy principal assistant secretary, the number two in the Bureau. And before that I was the Ambassador in Lesotho in southern Africa.

Mr. GROTHMAN. And when were appointed to that?

Ms. BOND. I'm sorry, when was I —

Mr. GROTHMAN. When were you appointed to the Ambassador of Lesotho?

Ms. BOND. I was there from 2010 to 2012.

Mr. GROTHMAN. Okay. So you are both, I am sure—Ambassador Bond, you are an appointee of President Obama, correct?

Ms. BOND. To this job, yes.

Mr. GROTHMAN. Yes, and the Ambassador job was —

Ms. BOND. That was also during the Obama administration.

Mr. GROTHMAN. Correct. And I am not sure. Mr. Ragsdale, is your position an appointed one by President Obama?

Mr. RAGSDALE. No, I am a career —

Mr. GROTHMAN. You are career?

Mr. RAGSDALE.—senior executive, yes.

Mr. GROTHMAN. Is there a political determination of who the deputy director is or not?

Mr. RAGSDALE. No, it is a career job.

Mr. GROTHMAN. Okay. Well, we will focus on you, Ambassador Bond. I mean, you know, there is something going on in the background here we are not talking about, but I would like to talk about it. You have been appointed in this position by President Obama, and there has been a theme, I think, through a variety of hearings we have had in which there doesn't seem a lot of sincerity in enforcing our immigration laws at all around here, whether it is people just coming across the border and letting to go back, whether it is not deporting people who commit crimes, whatever. To what degree do you believe President Obama is aware that you folks are not using the means at your disposal to remove the dangerous criminals back to the countries from which they came? Does President Obama know about this at all? Do you guys report to him? Have you heard anything from the White House about your horrible —

Ms. BOND. There have been instances where the President has raised the issue with his counterpart, the head of other countries, and so I know that he's aware of the issue of the task of dealing with recalcitrant countries and looking for ways to get them to meet their obligations —

Mr. GROTHMAN. But those ways haven't included denying visas or trying to prevent foreign aid from going to these countries? President Obama is aware of this and he still—I guess what you are saying is President Obama then is aware of this situation, right?

Ms. BOND. President Obama is aware of the fact that some countries are not meeting their obligations to cooperate in removing their citizens.

Mr. GROTHMAN. And has he weighed in with you guys at all to say let's withhold foreign aid, let's withhold visas from these countries or is he just kind of chit-chat, talk, talk, talk and not doing anything about it?

Ms. BOND. So actions that have been taken include a fairly recent—about a year ago a message from the deputy Secretary of State to every Ambassador telling them to raise this, particularly in the cases where we're not seeing —

Mr. GROTHMAN. Raise what?

Ms. BOND. Raise the question of the importance of resolving issues of —

Mr. GROTHMAN. About a year ago?

Ms. BOND.—returning citizens —

Mr. GROTHMAN. So about a year ago somebody said we ought to raise the issue. But has he ever threatened or has President Obama ever come down on you guys in saying, hey, we have a

bunch of criminals in this country, we have the ability to deny visas, we have the ability to withhold foreign aid, let's do something about it? Or is President Obama just—all you can come across is a year ago he said, well, maybe we ought to look at this sometime and see what we can do?

Ms. BOND. Maybe we ought to look at this sometime is not the message that was sent.

Mr. GROTHMAN. What was the message?

Ms. BOND. The message was to raise the visibility and to emphasize the importance of resolving these cases where they occur. And we completely agree with you and other members of this committee

Mr. GROTHMAN. I don't think you —

Ms. BOND.—that taking the actions, including visas sanctions, are—that is a real deterrent and it is a real threat.

Mr. GROTHMAN. Has —

Ms. BOND. But what we've seen —

Mr. GROTHMAN. Well, talk about threats. Has President Obama threatened with removing any of those appointees who haven't followed through on this?

Ms. BOND. I—you know, what we —

Mr. GROTHMAN. I mean, I didn't vote for the guy.

Ms. BOND.—are doing is working to make sure that we establish a process with every single country, focus on the ones that are not doing the job —

Mr. GROTHMAN. But does the process —

Ms. BOND.—that will work.

Mr. GROTHMAN. We only get 5 minutes here. Does the process include withholding foreign aid or withholding visas?

Ms. BOND. The process includes that possibility, absolutely.

Mr. GROTHMAN. Has it ever happened —

Ms. BOND. It —

Mr. GROTHMAN.—under your tenure?

Ms. BOND. It has happened that we have talked to governments and said if we're not seeing results —

Mr. GROTHMAN. Okay. So it has never happened, right, under your —

Ms. BOND. It has not been imposed but it has been discussed, and countries know that they are on the line.

Mr. GROTHMAN. Okay. Well, we only got about, what, 5 months to go on this administration. If he is going to impose it, he better do it quickly, and otherwise, I think the American people have to, you know, make sure the next President has an entirely different view of things. But thanks much.

Mr. RUSSELL. The gentleman yields back. The chair now recognizes the gentlelady from the Virgin Islands, Ms. Plaskett.

Ms. PLASKETT. Thank you, Mr. Chairman.

Ambassador BOND OR MR. Ragsdale, before my colleague leaves I understand that one of these statutes was previously invoked with Guyana in 2001. Mr. Ragsdale, do you know if that is correct?

Mr. RAGSDALE. That is my understanding.

Ms. PLASKETT. And at the time that it was invoked with Guyana, what were the problems that our government was facing with Guyana in deporting individuals there?

Mr. RAGSDALE. This was during the days of the Immigration and Naturalization Service, which was part of the Department of Justice —

Ms. PLASKETT. Right.

Mr. RAGSDALE.—so I cannot speak from personal knowledge, but I understand there was a delay in repatriations to Guyana, and we worked—at that time the Immigration and Naturalization Service worked with the Department of State to have visa sanction imposed.

Ms. PLASKETT. And was that an effective use of the statute?

Mr. RAGSDALE. I understand that it was.

Ms. PLASKETT. So we have used it in the past?

Mr. RAGSDALE. I understand that is the last time it has been used.

Ms. PLASKETT. And that was section 243(d) of the Immigration and Nationality Act, which allows for the Secretary of Homeland Security to formally notify the Secretary of State that a foreign government is denying or unreasonably delaying the acceptance of their deportees? Is that correct?

Mr. RAGSDALE. That is what the statute says.

Ms. PLASKETT. And why has the statute allowed it to remain at a Cabinet level with the Secretary of State requiring it to discontinue immigration or non-immigration visa status as opposed to Members of Congress who don't like a particular administration and want to impose that on other states?

Mr. RAGSDALE. If I understand, I mean, the statutory language actually reads "Attorney General," as folks have mentioned. At this point, that now is read to be the Secretary of Homeland Security, but the legislation itself grants that authority to that Cabinet-level position.

Ms. PLASKETT. And that is legislation that this Congress has given and found in putting that law in place that it was best to be left with the Secretary of State, with the Attorney General, and at a Cabinet level as opposed to Oversight and Government Reform Committee when they don't like how a particular administration is operating its visa and immigration status? Yes?

Mr. RAGSDALE. That's my understanding of the way the —

Ms. PLASKETT. Okay.

Mr. RAGSDALE.—statute reads.

Ms. PLASKETT. So it was effective in the use of Guyana. Could I ask you, Secretary Bond, is it possible—how would this affect—if we were to do something like this with a place like China, what would be the effect on our own economy if we were to impose something like this?

Ms. BOND. If you take a particular country, in any case you're going to be looking to see what would be the likely effectiveness of taking the step of, for example, sanctioning them on visas —

Ms. PLASKETT. Okay. So I guess let me be —

Ms. BOND.—and what would be the cost —

Ms. PLASKETT.—a little more specific. I am asking—so if we decided that we were going to revoke the ability of China to have immigration visas in this country because they were recalcitrant about returning one or two or three individuals back to China,

what would the effect on a regular basis be of China not being allowed immigration visas into this country, work or otherwise visas?

Ms. BOND. This is obviously a hypothetical question.

Ms. PLASKETT. Of course.

Ms. BOND. The likely response —

Ms. PLASKETT. It hasn't happened.

Ms. BOND.—of any government, one response would be that they would reciprocate. It would —

Ms. PLASKETT. Impose the same things on us, right? And the economy, the work that is done between China and the United States is how many visas a year would you say in terms of work visas going back and forth between the Chinese nationals and Americans into china?

Ms. BOND. I don't have that breakdown, but it's well over a million-and-a-half visas that are issued.

Ms. PLASKETT. Would that also affect American adoptions of Chinese children?

Ms. BOND. It's impossible to predict what a foreign government might decide to do in response, and important to remember that the purpose of doing it would be to get them to change what they're doing on removing their aliens. We want to focus on that. We would be looking for measures we can take that are likely to steer them in that direction not to trigger retaliation where we then end up arguing about visas and not making any progress on removals.

Ms. PLASKETT. Okay. Thank you. I have no further questions at this time.

Ms. BOND. Sir, if I may just quickly correct the record —

Mr. RUSSELL. Yes, please.

Ms. BOND.—to make it clear that I'm —

Mr. RUSSELL. You bet you.

Ms. BOND.—also a career member of the government, a career foreign service officer in addition to being politically appointed to this particular job. Thank you.

Mr. RUSSELL. And let the record note. The gentlelady has yielded back and the chair now recognizes the gentleman from Alabama, Mr. Palmer, for 5 minutes.

Mr. PALMER. Thank you, Mr. Chairman.

Ambassador Bond, you stated in your testimony that some recalcitrant countries like China wouldn't be largely affected via sanctions because they control foreign travel of their citizens. A recent GAO report this year found that the United States is the largest source of remittances in the world, in fact, 54.2 billion abroad in 2014. Mexico, China, India, the Philippines received the most money from us. But I notice many of the countries who received significant remittances from us are also the same ones who refuse to repatriate citizens who commit crimes on U.S. soil.

If the State Department's highest priority is the protection of U.S. citizens, why shouldn't we block remittances to these countries?

Ms. BOND. Sir, some of the countries that you mentioned are not countries that have been recalcitrant or have been a problem in this particular —

Mr. PALMER. I understand that.

Ms. BOND.—issue.

Mr. PALMER. I just —

Ms. BOND. Our goal in dealing with each of the countries that are designated recalcitrant, as well as those that are on a list that we're watching and working with to make sure that their performance doesn't get worse, our goal is to look for ways to incentivize them to do what they need to do and to establish a process that routinely works.

We agree that the possibility of visa sanction can be an effective tool. I would argue that part of what makes it effective is that when it's imposed, it's very clear to the other country, very clear to anyone who's looking at the situation that we did our best to find a way to resolve that problem without going to that step and that they left us no choice. We were not seeing cooperation, we were not seeing response, and therefore, we took that step.

Where we're seeing a response, where we're seeing a step in the right direction and movement in the right direction and commitment to keep that going, we push to keep that going and —

Mr. PALMER. I appreciate all of that —

Ms. BOND.—that's the approach.

Mr. PALMER.—but let me—this just seems to—this is problematic for me. We have talked about the cases where people who had been arrested multiple times have committed crimes that resulted in the deaths of their victims, okay. That is an enormous cost. But if you take into account—and this has happened in my home State of Alabama where our local law enforcement have arrested people multiple times. It goes on all around the country where people are here illegally and the United States has not been able to repatriate them to their countries of origin, have committed other crimes. There is an enormous cost there that the taxpayers are paying, in some cases the victims, and I guess in every case the victim of the crime is paying, yet we are sending \$54 billion. I mean, doesn't it make sense to at least deduct the cost?

And, I mean, it is across the board with the whole issue of this administration allowing illegals to come into the country and we are taking care of them, we are paying for it, the taxpayers are paying for it. If we can't get the administration to at least recognize that, can we at least get the administration to recognize that we are paying an enormous cost for the crimes that are being committed and deduct that from the remittances? Doesn't that make sense?

Ms. BOND. We absolutely recognize the cost in terms of —

Mr. PALMER. But you are not doing anything about it.

Ms. BOND.—the cost of detention and the penalty paid by victims of folks, and that is why this is a priority and we are looking for effective and more and more effective ways to address this.

We do have examples of countries where we have been successful, where we've been working with them and they are not on the recalcitrant list. So this is not a static list.

Mr. PALMER. But there are countries who are persistent, and all I am saying is in that case where we are making remittances doesn't it make sense to at least deduct the cost, maybe even compensate the victims? I mean, doesn't that make sense?

Ms. BOND. So the option of eventually taking a look at having the foreign assistance that we provide to a foreign government be

affected by their performance in this field, that option is on the table. It's there.

Mr. PALMER. Well, I can tell you, and I don't know if you picked up on it, but I am extremely frustrated by how our country has handled this. We have allowed this to go on. We have allowed our own citizens to be victimized by it. We have put enormous burdens on our law enforcement as though they don't have enough on them already. I think it ought to be evident that they do. And the administration's policies, frankly, are not only disappointing, it is just incomprehensible that we continue to allow this to happen.

Mr. Chairman, I yield back.

Mr. RUSSELL. The gentleman yields back. The chair now recognizes the gentlelady from Michigan, Mrs. Lawrence, for 5 minutes.

Mrs. LAWRENCE. Yes, Mr. Chairman, before I start my remarks, I would like to recognize Judith Cummins, who is a British Member of Parliament. She is joining eight other Members of the Parliament who are on the Hill today, and she is in the audience. I just wanted to recognize her and welcome her to the United States Congress.

I want to start my remarks to say that I am hoping this dialogue leads to some sense of awakening to Congress that we need comprehensive immigration reform, and that requires action of Congress. It is very easy to point your fingers and criticize or have opinions against the administration when repeatedly there has been calls and requests for us to do our job as Congress and to develop a comprehensive immigration program for America. We need it.

It is refreshing to hear that my colleagues on the other side actually recognize that. And so I hope from this hearing we will get some action and we will actually step up and do our job.

I want to ask a question to Mr. Ragsdale. Does ICE request for alternative measures referred to in these series of letters that are sent out to these recalcitrant countries refer only to denying visas or also other tools within the state's purview?

Mr. RAGSDALE. The precise what I'll say is remedy would not be something that ICE would propose. In other words, we would work with our colleagues in Consular Affairs to figure out the precise interaction diplomatically. The only thing we are interested in is getting a travel document or somebody on an approved manifest that were allowed either to board them on a charter air flight or a commercial air flight to remove them from the United States. So I would defer to my colleague from the State Department in terms of the precise —

Mrs. LAWRENCE. Secretary Bond, could you respond to that? What are the tools or what are the alternative measures that is referred to? Is it only the visas? What are the other tools?

Ms. BOND. So when we agree because we are working really consistently, closely, and when ICE flags for us their sense that they are just going—getting nowhere with a particular country and they want to look with us at ways to increase the pressure, increase the focus and the attention and get results, some of the things that are options include for us to be raising that issue at a higher level of government to say at the working level this is not being resolved. It's not being —

Mrs. LAWRENCE. Who are the higher levels of government?

Ms. BOND. Well, it could include, for example, our Ambassador in that country going into the Foreign Minister or the Ministry of Interior, whoever there might be responsible for issuing passports and say, you know, we need to find ways to address whatever is keeping you from doing your job to identify and document citizens. There are some cases where foreign governments say we don't think this is our citizen. All right. Well, we want to see evidence that they are really putting effort into making a legitimate determination and that they've looked carefully at that case.

This happens to us as well overseas where foreign governments will come to our embassy and say we think this person in our jail is an American. We go talk to them and we don't think it's an American, and that's what we tell them.

Mrs. LAWRENCE. The letters that were sent, ICE that sent describe the difficulties with the country in question, the joint efforts of ICE and the Consular Affairs have been taken to date and each agency's view on the proposed next steps. Secretary Bond, how useful is the information in these letters in coordinating additional efforts with ICE? And I am really interested because ICE keeps saying that they are so limited. Here, we are saying there is additional efforts that ICE should take or can take. So can you respond to that?

Ms. BOND. Well, perhaps I could respond giving the example of Liberia because that's one of the countries that's been raised. I visited Liberia in March, and when—and I had the ability to sit down with the Foreign Minister and their Attorney General and senior members of their government. And that was the number one issue that I was raising with them was to say we have lots of things, important things we want to accomplish together, Liberia and the United States. This issue needs to be resolved.

And your embassy, your consulates, many of them have a consulate in New York that follows events at the United Nations, we need you to be in touch with them to be very clear about the priority you place on cooperation on this.

Now, we have seen a change in the way Liberia is operating in this issue since March, and we are seeing travel documents issued, a commitment that they will continue to issue and a commitment that they will accelerate those issuances. If they don't follow through on that, they know that the threat of visa sanctions is a real one. This is not something where we just mention that that could happen. We have made it very clear to these countries —

Mrs. LAWRENCE. My time is up. And before I turn it over to Mr. Chairman, I just want to say President Obama has been invoked a lot in this discussion. I am proud of the fact that we had a President—lack of action of Congress—did try to address this issue and put some measures in place, and I would be proud to say that my Congress has stepped up and really started working on comprehensive immigration reform because we need to address these issues. Thank you so much.

Mr. RUSSELL. The gentlelady yields back. The chair now recognizes the gentleman from Ohio, Mr. Jordan, for 5 minutes.

Mr. JORDAN. Thank you, Mr. Chairman.

Ambassador Bond, just a few minutes ago you said in questioning from Congressman Palmer, “We at the State Department believe denying visa can be an effective tool.” How can it be effective if you never use it? In the past 7-1/2 years during the Obama administration, how many times have you used denying visas as one of those beliefs that it “can be an effective tool”? How many times have you used it?

Ms. BOND. We have not sanctioned—in other words, we haven’t

Mr. JORDAN. Is the answer zero?

Ms. BOND.—applied that, but what we have done —

Mr. JORDAN. Is the answer —

Ms. BOND.—is to say to foreign governments this is the pattern that we’re seeing. We’re not seeing responsiveness from you. We’re not seeing a legitimate effort to —

Mr. JORDAN. But my question was how many —

Ms. BOND.—identify the citizens —

Mr. JORDAN.—times have you used what you said you believe to be an effective tool? How many times have you used this “effective tool” in the last 7-1/2 years?

Ms. BOND. We have not used it.

Mr. JORDAN. Never? Okay. Now, is there any part of the statute you don’t understand? “On being notified that the government of a foreign country denies accepting an alien who is a citizen, subject, national, or resident of that country, the Secretary of State shall order consular offices in that country to discontinue granting visas.” Any part of that you don’t understand?

Ms. BOND. No.

Mr. JORDAN. So I don’t either. That is as plain as you can write it. So in 7-1/2 years this “effective tool” that you believe is so effective, you have never used it even though the statute says you shall do it if, in fact, you are given notice that this is going on. Is it going on? Mr. Ragsdale, do we have deportable aliens who have been released back on to U.S. streets because their home country refuses to repatriate them? Do we have that phenomena going on in the United States today?

Mr. RAGSDALE. Yes, we do.

Mr. JORDAN. And how many people are in that category, let’s say in the last—we will stick with the same time frame. During the Obama presidency in the last 7-1/2 years, how many people fall into that category?

Mr. RAGSDALE. It’s tens of thousands of people.

Mr. JORDAN. Tens of thousands? Tens of thousands. The State Department says it is an effective tool to deny visas for tens of thousands, and yet they have not used it once. And the statute says you shall do it. Now, I am missing something, Ambassador. What is going on here?

Ms. BOND. The statute says that when the Secretary of Homeland Security informs the Secretary of State, that they—that he wants to trigger this sanction, we shall do so, and we shall.

Mr. JORDAN. But you haven’t. Mr. Ragsdale —

Ms. BOND. We have not received such a notification from the Secretary of Homeland Security.

Mr. JORDAN. Well, it is about time. Mr. Ragsdale, how many of these thousands wound up doing some kind of violent offense against an American, some kind of violent crime?

Mr. RAGSDALE. So there are criminal aliens in this group. There is no question about that.

Mr. JORDAN. A lot? Hundreds? Thousands? Hundreds have done violent crimes and there should have been at least some sanction against their home country —

Mr. RAGSDALE. It is —

Mr. JORDAN.—that wasn't put in place?

Mr. RAGSDALE. It is a substantial number.

Mr. JORDAN. How many of those thousands—do you know any of those thousands, any of them on the terrorism watch list?

Mr. RAGSDALE. I do not believe any pose a national security threat for that reason.

Mr. JORDAN. That is not what I asked you. Are any of them on the terrorism watch list? There are thousands who are in this category where we haven't taken any sanctions against their home country. Any of them on the terrorism watch list?

Mr. RAGSDALE. We do a full background check on all the appropriate indices before we release anyone.

Mr. JORDAN. Is the answer yes or no to that question?

Mr. RAGSDALE. I would loathe to speculate, but the answer should be no.

Mr. JORDAN. Should be no but you can't say definitively?

Mr. RAGSDALE. With substantial confidence —

Mr. JORDAN. Any of them on the no-fly list?

Mr. RAGSDALE. With substantial confidence I would say no.

Mr. JORDAN. Any of them on the no-fly list?

Mr. RAGSDALE. Again, I don't want to speculate because of course that is a fluid list. Somebody may not have been on the no-fly list in one year and added and vice versa. So in the —

Mr. JORDAN. I am talking the Obama administration, in that time frame, any of these folks who should have been sent back to their home country and we took no sanctions against the home country, any of them wind up on the terrorism watch list or the no-fly list?

Mr. RAGSDALE. So I cannot speculate over the course of 7-1/2 years.

Mr. JORDAN. Can you get us that information? That would be something we would like to know.

Mr. RAGSDALE. We certainly can—what I can tell you for certain is we do every appropriate background check before we release someone. That I am certain of.

Mr. JORDAN. So why aren't you giving notice to the State Department to do what the statute says?

Mr. RAGSDALE. So as the chairman noted, our director has worked with Assistant Secretary Bond on ratcheting up on at least four countries with the potential for 243(d) sanctions, and we will work on that. You know, again —

Mr. JORDAN. It is always we will work on it, we are looking at it, we are trying, all this wonderful talk. I think it is clear, statute is very clear, if the State Department believes it is an effective tool, then you have got to put them on notice so they can use the tool.

I don't know if they will, but let's hope they would. It is the old line, when you do something right, you don't have to do it often, right? But if you never do it, you never send the message. And that to me is the takeaway here.

Mr. Chairman, thank you. I yield back.

Mr. RUSSELL. The gentleman yields back. The chair now recognizes the gentlelady from New York, Mrs. Maloney, for 5 minutes.

Mrs. MALONEY. Thank you, Mr. Russell.

I think we have found something, Mr. Jordan, we can work together on. I couldn't agree with you more. And I think we ought to change the law, just take Homeland Security out of it and put the State Department in charge. And when it says that—by the way, I have a lot of respect for both of your offices and you and thank you for your public service. But if it is not working, we have got to change it. And everybody says, well, maybe if the State Department got involved, we could negotiate, as you have done with Liberia, to get a better result. I would say let's change it and get the State Department involved in the beginning and then start using this. Since Homeland Security is focused on other things more than this, maybe we should rewrite it, take them out, and have the State Department—you would have to wait for a referral.

I think the number one duty of government is to protect our people, and the fact that dangerous people are put back on the street that can murder people like Ms. Casey Chadwick is one of the reasons we can't pass comprehensive immigration reform. They keep reading these stories and it is hard to get people to agree if we can't even agree on how we are going to make this work.

So I think you have taken some positive steps having that list that you put together. I think that the Jean Jacques case highlighted the need for our government to identify what countries are the most noncompliant so that both of you, State and ICE, can work together to get them to comply.

And it is my understanding that in 2015 ICE began using a pilot tool to help identify the countries that are the most recalcitrant, and I think that that is important. Do you make that list public? Is that list public? Is it up on the Web site like your tips report is on what countries are not participating in combating sex trafficking? What do you do with that list? Is it a private list or do you put it out on the Internet or what do you do with it?

Mr. RAGSDALE. So I don't believe we have it necessarily on our Internet post. I mean, it's certainly something that we've discussed with some real clarity here. And I will tell you that, you know, the—as you note, we had sort of an anecdotal list over the course of years on determining who was recalcitrant. This tool is what I'll say is a positive step forward that puts some analytics behind it. We also use —

Mrs. MALONEY. How does the tool work? Can you describe it?

Mr. RAGSDALE. It weighs various factors. It weighs —

Mrs. MALONEY. Pardon me?

Mr. RAGSDALE. It weighs whether someone would take charter flights, it weighs how long it takes them to issue travel documents, it weighs by nationality the removal rate versus the release rate. It also takes into consideration the conditions of each country. There may be countries that are recalcitrant because there's no

functioning government. So it takes all of those into account and then produces essentially the analysis.

Mrs. MALONEY. Well, I think if you have a country that doesn't have a functioning government, that is a no-brainer. We should use our visa sanctions. And if you have a country that won't take a Jean Jacques back after he has murdered people, gone to jail, and been a bad, bad actor in our country, then we should give them a visa sanction.

I think we have got to start acting on this and not just talking about it because as long as you have all these criminals running around causing problems that are illegal immigrants, it is very hard to get any functioning immigration discussion going.

And we are the greatest country on earth. We can figure this out? I think you have to put the State Department in charge because they will make it a focus. And you have been successful, Ms. Bond, as you mentioned in your meetings with Liberia, and make some changes to the law and make it function.

I think also a very successful tool in the State Department was the report you did on trafficking. I think we should do the same type of report on how they are cooperating and taking back illegal immigrants that are killing people in America and put it up for the American people to see. And I think you should take strong actions on it.

This is something we can do. This is something I would think that every single American in this country would agree with in one of the most controversial areas, immigration. So I hope we can work together to make that happen, and I hope that Congress will legislate on it and come out with some specific ways to make this move forward.

My time is expired, I believe, but in any event, why have a law if you don't use it? And it is getting to the point where people do not trust our immigration system or trust our government to protect them.

Anyway, I yield back.

Mr. RUSSELL. The gentlelady yields back. The chair now recognizes the gentleman from Florida, Mr. Mica, for 5 minutes.

Mr. MICA. If I may start and follow up on the gentlelady from New York's questions, we started asking about countries and non-cooperation or countries where these folks are coming from. Can you tell us like what is the leading country?

Mr. RAGSDALE. In terms of the overall number of folks that are

Mr. MICA. Yes.

Mr. RAGSDALE.—have a final removal order? It would be Cuba. Cuba or China, excuse me. China, I think, is number one.

Mr. MICA. Well, we just established relations with Cuba and we have had relations with China. And can you provide the committee with some numbers?

Mr. RAGSDALE. Certainly.

Mr. MICA. Do you have them?

Mr. RAGSDALE. They are roughly, I think, about 39,000 individuals from China. It looks like Cuba is around 36,000.

Mr. MICA. Wow.

Mr. RAGSDALE. So what I will importantly note that both from China and Cuba, as the assistant secretary said —

Mr. MICA. And —

Mr. RAGSDALE.—we have raised the issue with Cuba, first and foremost as—and folks are doing it as we speak, and with China —

Mr. MICA. Because that just opened up and I would think it would be one of the top diplomatic issues that we would raise. Is that right, Ambassador?

Ms. BOND. It is. It is a subject we're —

Mr. MICA. But they have not—have they acquiesced in any way?

Ms. BOND. Their response has been that they want to reopen the broader issue of immigration rules of travel between Cuba and the United States.

Mr. MICA. But there is no progress then?

Ms. BOND. Not yet.

Mr. MICA. Okay. You also said, Ambassador, while we are on you, that you hadn't gotten any indication from DHS to move forward, and that is what you were waiting on on moving forward with some of the visa restrictions?

Ms. BOND. The specific question was why hadn't we imposed the sanction —

Mr. MICA. And you said because you had —

Ms. BOND.—and the technical—you know, the legal answer —

Mr. MICA. Yes.

Ms. BOND.—is because we didn't get that—but again, it's so important to stress that we work very, very closely with DHS —

Mr. MICA. But obviously —

Ms. BOND.—on this issue.

Mr. MICA.—you are not doing anything because they didn't ask or tell you to do anything, did they?

Ms. BOND. We're not imposing visa sanctions for that reason —

Mr. MICA. But, again —

Ms. BOND.—but we are doing —

Mr. MICA.—the reason —

Ms. BOND.—lots of things —

Mr. MICA.—as you said—I thought you testified, Mr. Jordan asked the question, that you had not been directed, so you were waiting to hear from DHS.

Ms. BOND. It is correct to say that we —

Mr. MICA. Okay.

Ms. BOND.—have not received that notification —

Mr. MICA. Mr. Chairman —

Ms. BOND.—but not correct to say —

Mr. MICA.—the committee and members —

Ms. BOND.—that we're waiting.

Mr. MICA.—and this appears to have some bipartisan appeal, we can send a letter from the committee asking DHS to get the word to Ambassador Bond and State to take action here. Maybe that would help. Sometimes we don't have to legislate, although that is another question that I have further on is any gaps in legislation to allow you to proceed.

Let me go back for a minute here. About half the people here I guess were here illegally, came in illegally, totally illegally, and

then about half I guess came in and overstayed a visa, a student permit, or work permit. I guess that is about right, Mr. Ragsdale?

Mr. RAGSDALE. It would be a blended set.

Mr. MICA. Just—yes. But the President's Executive order or directive on amnesty, that affected about half of the population I think. And of that, your—well, one of your responsibilities, whether they are part of that population or other population is to remove criminal illegals, right?

Mr. RAGSDALE. We—once —

Mr. MICA. Yes?

Mr. RAGSDALE.—a removal order is final —

Mr. MICA. Yes.

Mr. RAGSDALE.—and we are able to execute it, we request a travel document immediately.

Mr. MICA. But you remove them. And what is interesting from our last hearing we found 2013—these are domestic not at-the-border removals—you had 110,000 in 2013. In 2014 86—I will give you credit for—you were close to 87,000. In 2015 you are down to 63,000. We keep seeing a reduced number in those that you are actually removing. Those figures are correct?

Mr. RAGSDALE. I think as you've known for your last hearing the complexity in arresting, locating, and removing folks —

Mr. MICA. But —

Mr. RAGSDALE.—in the interior of the United States —

Mr. MICA.—the net result is —

Mr. RAGSDALE.—is a challenge and the numbers have fallen, yes.

Mr. MICA.—not quite half in several years, but we are going forward.

And then finally, just about out of time, any legislative tools—there was this Executive directive and then there was a—and for a while you all said and a lot of people said they didn't know what they could do or couldn't do because of the status, and then you had this court case that said they had to be released within 180 days. Then you had the reversal of the Obama decision. Where are you now in your ability to remove criminal illegals?

Mr. RAGSDALE. Again, we still need final orders of removal and travel documents, so that doesn't change. I think, as everyone has said, a comprehensive reform could fix a lot of challenges.

Mr. MICA. Thank you.

Mr. RUSSELL. And the gentleman yields back.

And I would like to follow on to one thing that Mr. Mica had said. You know, with respect to Cuba that is still kind of an under-developed relationship there but not so much with China. What is the reason that China is giving for not taking these citizens back? What is the big holdup? Is there a trend? Are there specifics? Ambassador Bond?

Ms. BOND. I have discussed this myself with the Chinese in Beijing and yesterday with China's Ambassador here to emphasize again that we want to see this be a higher priority for the Chinese Government. We want to see them put the resources in to this issue that would be required to resolve the high numbers that you have just heard cited. So there are, you know, different reasons that they give —

Mr. RUSSELL. Such as?

Ms. BOND. They say, for example, that in some cases people—people may be in the United States with a Chinese passport, and they say, well, we would need to be able to look into whether that was a legitimate passport and whether it was issued to that individual. There are people out there in false identities and so forth. Some of the people have no identification because they tore up whatever they had before they came into the United States, and the Chinese have said it's difficult for us to confirm the identity of some of these people, especially if they turn out to be from a rural area. They have said in some cases someone may be Chinese ethnically and sound Chinese and so forth but actually be from Malaysia or another country, and they're not willing to document someone as a Chinese national unless they can confirm that that's the case.

All of those are perfectly legitimate things to raise as issues that need to be addressed. What we're looking for is evidence that they are seriously addressing them and that they are paying attention to this. And that was the point that I was stressing to the Ambassador. It's—we don't want to hear excuses for why it's so hard. China is a big country. They do hard things. They can do this.

Mr. RUSSELL. Thank you. And the chair now recognizes the gentleman from Pennsylvania, Mr. Cartwright, for 5 minutes.

Mr. CARTWRIGHT. Thank you, Mr. Chairman. And, Mr. Chairman, like you, I take protecting the safety and security of American citizens as my most solemn duty as a Member of Congress, and I, like I think most Americans, am troubled when I hear these stories about illegal aliens who have committed crimes in the United States, served their sentences, and then are released back into the population.

And I understand that happens because of that Supreme Court of the United States decision in 2001, and I also think that the wrong answer is to punish local police forces and local municipalities. I think the focus does have to be where it is today on these nations that are recalcitrant in taking back these illegals that committed crimes in the United States.

Assistant Secretary Bond, I understand the list of those nations is in the neighborhood of a couple of dozen. Is that about right?

Ms. BOND. Yes, sir. There are 23 countries on the list.

Mr. CARTWRIGHT. I also understand that Mexico is not among those, am I correct in that?

Mr. RAGSDALE. Mexico is not among them.

Mr. CARTWRIGHT. Okay. Well, I ask that because there are voices out there screaming about Mexican illegal immigrants who are committing crimes in this country, but Mexico has cooperated in taking back illegals who have committed crimes, served out their sentences, and need to go back to Mexico, is that right?

Mr. RAGSDALE. That is right, and they do that both along our southwest border and we also have an interior repatriation flight where we fly criminal aliens directly from the United States into Mexico City.

Mr. CARTWRIGHT. All right. Now, Mr. Jordan was going on about the question of whether we have ever issued these section 243(d) sanctions in the last 7-1/2 years in this administration, 243(d) sanctions meaning revoking visas for people who want to come to

our country from those so-called recalcitrant nations. And he made the point that we have not issued those sanctions, and I guess that is the reason for the title of this hearing today.

Here is my question. Ambassador Bond, have we ever threatened the use of those sanctions or intimidated or hinted that we may impose those sanctions in individual relations with particular nations?

Ms. BOND. Yes, we absolutely have done that.

Mr. CARTWRIGHT. Is that part of your toolbox?

Ms. BOND. Yes.

Mr. CARTWRIGHT. Do you use it?

Ms. BOND. We have informed specific countries that are on the recalcitrant list that we have to see results and—within a time-bound period of time or there is going to be a real likelihood that the next step would be visa sanctions.

Mr. CARTWRIGHT. And visa —

Ms. BOND. And what we have seen in many cases is that you do get a response to that, that —

Mr. CARTWRIGHT. That was my next question. Does it work?

Ms. BOND. It does. The—but let's be clear. It works in the sense that we do see a response, a reaction, an additional attention being paid, actual travel documents being issued, and aliens being removed from the United States. It requires constant pressure because what you can't do is to issue a threat and they give you a response and then that doesn't become a pattern. What we are working to do is to make it a routine. With more than 100 countries, this is a routine, normal thing. This is what governments do.

I've been responsible when serving overseas for documenting someone who's coming out of jail and making arrangements to put that person on a flight and sometimes making arrangements for U.S. Marshals to fly with him or meet him because there's an outstanding warrant for that person in the States.

But it is the job of a government to identify and document its citizens and to take that seriously.

Mr. CARTWRIGHT. I don't mean to interrupt you, but I have only got half-a-minute left. If you want to use the threat of visa sanctions effectively, would it make sense to actually impose them once in a great while?

Ms. BOND. It absolutely would make sense to do that in cases where we are—we're able to say to that country you simply are not responding.

Mr. CARTWRIGHT. Right.

Ms. BOND. You have left us no choice. But in cases where people are responding and you are moving forward, then it can be a distraction and unhelpful to say, okay, we see you doing this and now we're going to bring the hammer down.

Mr. CARTWRIGHT. I understand that. So one size fits all doesn't make sense, but I urge you to consider redoubling your efforts and your focus on this area. I do want to associate myself with the thoughtful remarks of Congresswoman Maloney. She has a point when she says these stories, these stories of criminals going back and engaging in recidivism in the United States are retarding our ability to get the message out about the importance of comprehensive immigration reform. That is going to continue to be a problem,

and you can really help us if you redouble your efforts to focus on these recalcitrant nations.

And with that, I yield back.

Ms. BOND. Thank you.

Mr. RUSSELL. The gentleman yields back, and the chair now recognizes the gentleman from Iowa, Mr. Blum, for 5 minutes.

Mr. BLUM. Thank you, Mr. Chairman. Thank you to our witnesses today shedding some light on this most important topic.

I am a career businessman. I am used to getting things done. When I go back to my district and Iowa citizens way, you know, that is really nice, these oversight hearings, it is great you are pointing out waste, fraud, and abuse in the Federal Government, but whatever gets done? Whatever gets done? So I am here to ask you those type of questions.

I have heard a recurring theme today, same message, both sides of the aisle perhaps stated in different ways. I would like to ask each of you what have you heard today? What are you going to take away from this hearing today? Ambassador Bond, can you summarize for me?

Ms. BOND. Yes, sir. What I have heard is a clear message from this committee, both sides of the aisle, that this is a critical issue, that members want to see more effort focused on getting results, getting people out of the country who are subjects of final order of removal and that you want us to use every tool at our disposal to make that happen.

Mr. BLUM. Mr. Ragsdale?

Mr. RAGSDALE. I would completely agree with that summary, and I would also add and thank the committee for bringing this hearing and your voice to this important issue. I will tell you on behalf of the law enforcement men and women of ICE there is nothing we would like to do more than remove every single person we can who is the subject of final order, particularly criminal aliens.

Mr. BLUM. Most every citizen of this country agrees with what you just said. Now, as the businessman in me, what is going to be done? I think you have got the message, and that is good to hear, A. Now, what is the action plan? What is going to happen, anything, or is this just going to be a hearing and that is it, nothing is going to change?

Ms. BOND. Sir, as Mr. Ragsdale has pointed out, it helps us in our efforts that we are able to point out to these countries that this is an issue that is receiving attention and priority broadly, not only in the executive branch but also in Congress and that they have got to deliver, they have got to show actual results and not just promise that they're definitely positively absolutely going to do things differently.

And so we are in regular communication with—especially with the countries on this list but with all of them, with all of them, and we will make it clear we have to see results. We do have commitments from these countries that we will, but we will be making it clear. If we don't, then Congress is looking for examples of every tool being employed, and we are going to have to comply with that obviously and working with ICE because this is a joint operation. This is a good example of the kind of issue that requires diplomatic

and law enforcement and the combined effort of more than one agency, and we are a strong team working on this issue.

Mr. BLUM. Mr. Ragsdale?

Mr. RAGSDALE. Again, I completely concur that —

Mr. BLUM. What is going to be done?

Mr. RAGSDALE. There's two things we're going to do. We're going to continue to refine the model so we make the most persuasive case we possibly can from the analytical tool that I talked about to make it clear when countries are in fact recalcitrant. So we're going to arm the State Department with the best information possible.

The other thing we're doing is we are expanding our overseas footprint so we are not completely relying on the diplomatic side, but where there's law-enforcement-to-law-enforcement connectivity in countries where we can work state and local governments shoulder to shoulder when we work with them on many other topics to try to get travel documents. So there's a partnership both here, and we're going to work abroad to get action.

Mr. BLUM. I am frustrated because the statistic on my paper says since 2011 13,511 criminal aliens have been released back into American communities. This isn't rocket science. I know we are dealing with other countries. Americans want action. They are behind you. They want you to do this. They are behind you. I don't know if the administration is at 1600 Pennsylvania Avenue, but the American people are behind you. They want action. Thirteen thousand five hundred and eleven have been released back into American communities. We need action, not just hearings, we need action.

I would like to have a follow-up hearing on this to see what action has taken place 6 months from now. And why hasn't this action taken place in the last 5 years? We all would agree it is not rocket science. Thirteen thousand five hundred and eleven, why? Where is the holdup? Where is the block at? What is stopping each of you in your departments, your agencies from doing exactly what you heard here today and what you profess to agree with? What has been the blockage? Tell me so we can remove it. Let's be honest. Tell me.

Ms. BOND. This is a difficult situation. We are dealing with countries, all of them, and specifically with ones that consistently have a pattern of failing to step up and do everything that they can do on their side. We are pushing them for action. When we are seeing results, we keep pushing so that they'll keep moving in that direction.

But we have heard you loud and clear that the committee believes that using every possible tool has got to be something that is a real threat and that people are—don't think, oh, yes, there they go again raising that, but that they know that we will do it if we aren't seeing the cooperation that they are obliged to provide under international law.

Mr. BLUM. Mr. Ragsdale?

Mr. RAGSDALE. So, briefly, I'll simply say this is pressure that has been brought to bear over the course of years, and while it may not have included visa sanctions, the charter flight to India, the charter flight to Africa that I mentioned earlier on are successes

from groundwork that was laid over the last couple of years. So we hear you loud and clear on using every option, and we'll work together to do it.

Mr. BLUM. I implore you to take this message today back to your agencies. And my time is expired. Thank you for your insights.

Mr. RUSSELL. The gentleman yields back, and the chair now recognizes the gentleman from Virginia, Mr. Connolly, for 5 minutes.

Mr. CONNOLLY. I thank the chair.

And I am sorry to be late. I was on the Floor and then had a markup in the House Foreign Affairs Committee, and it is a busy today, our last day in session. So I thank the indulgence of the chair.

Mr. Ragsdale, section 243 of the Immigration and Nationality Act allows the Secretary of Homeland Security to formally notify the Secretary of State that a foreign government is denying or unreasonably delaying the acceptance of deportees, is that correct?

Mr. RAGSDALE. That is what the statute says, yes.

Mr. CONNOLLY. And the last time we did that was when?

Mr. RAGSDALE. I understand it's 2001 when it was the Immigration and Naturalization Service and the Attorney General.

Mr. CONNOLLY. With Guyana, was that —

Mr. RAGSDALE. With Guyana, yes.

Mr. CONNOLLY.—the country of Guyana? And, Ambassador Bond, so the law further stipulates that when that happens, certain things are required of the Secretary of State. They automatically are supposed to occur, is that correct?

Ms. BOND. Yes.

Mr. CONNOLLY. And can you delineate for us what are those things?

Ms. BOND. Yes. If the Secretary of Homeland Security notifies the Secretary of State that he wants to trigger this sanction against a specific country, then we would decide what exactly are we going to do.

In the case of Guyana, the decision was made to stop issuing visas to members of that government and their family members, spouses, and children. And it was effective. It played a role that this was a small government where everybody who needed to be part of making a decision to make a change was part of a small group, and it played a role that the citizens of that country, including their members of government, for them, if you had the means to travel, the destination was the United States. So those are factors that did help to make it very effective in that particular case.

There are some countries where the destination for most people would be Europe and they would be less impacted by our decision not to issue a particular kind of visa. But—so, all right, our job then would be to figure out what is the measure you could take that's going to have the biggest impact and the most likely to get their attention and to have the effect that you're going for, which is the removal of those aliens because that's the goal. We want them out of the country.

Mr. CONNOLLY. Right. Is one to construe—and this goes to both of you, and you, Mr. Ragsdale, first. Should one construe from the fact that the last time the head of Homeland Security provided that

notification to the Department of State, Secretary of State was 15 years ago that we haven't had a problem in the interim?

Mr. RAGSDALE. No, we certainly could not construe that. But I would also say it does not—one should also not construe that nothing has been done to —

Mr. CONNOLLY. That is —

Mr. RAGSDALE.—try to address the problem in the interim.

Mr. CONNOLLY. Right. What should be construed?

Mr. RAGSDALE. So there has been—again, if you note, the MOU between Consular Affairs and ICE was signed in 2011, so, I mean, this—the formalization of our process to identify and work on recalcitrant countries is 5 years old.

The work to get countries off the recalcitrant country list, and there have been some that have come off, that's work that's been done over the —

Mr. CONNOLLY. So —

Mr. RAGSDALE.—that period of time.

Mr. CONNOLLY.—one might—if I may interrupt, and again, feel free to comment, Ambassador Bond, one might conclude from what you just said that, look, this authority or strengthening this authority through new legislation is a very crude weapon and that what we are trying to do is use other means of coaxing, eliciting cooperation from an offending nation. Would that be a fair conclusion?

Mr. RAGSDALE. I would agree.

Mr. CONNOLLY. Ambassador Bond?

Ms. BOND. Yes, that's the case.

Mr. CONNOLLY. Why is that a better way to operate than just bludgeoning somebody over the head, we are going to shut it all down if you don't do what we say? You are a diplomat.

Ms. BOND. What we are going after —

Mr. CONNOLLY. This is a softball question. This is the opportunity to promote diplomacy, Ambassador Bond, in 46 seconds.

Ms. BOND. Well, I hope I don't blow it. The—we all agree on what the goal is here. We want the process with every single country to be one that works automatically and smoothly, and when there are inevitable individual cases that are problematic that we have an efficient means of addressing those and resolving them so that we don't have the numbers that we've been talking about here. So —

Mr. CONNOLLY. And real quickly, has that been effective from your point of view?

Ms. BOND. It has been effective in a number of different cases where there are countries that were not taking their citizens back, were not prioritizing this, were not putting the resources into saying, yes, let's figure out who is and isn't a citizen, and now they are. And some of them are countries that have a lot fewer resources than countries like China —

Mr. CONNOLLY. My time has expired. I would invite you to submit such a list, at least illustrative list to the committee to substantiate that. We don't have time to pursue it.

Mr. CONNOLLY. Mr. Chairman, again, thank you for your indulgence.

Mr. RUSSELL. The gentleman yields back, and the chair now recognizes the gentleman from North Carolina, Mr. Meadows, for 5 minutes.

Mr. MEADOWS. Thank you, Mr. Chairman.

Thank you both for your testimony, your longstanding service. Ambassador Bond, I want to thank you for your service not only in your current position but obviously your longstanding service in the Foreign Service.

So I want to clear up a few things because we have been talking and you hear—I guess rarely in this committee do we get as much bipartisan support of using a particular tool. Some would suggest to use it more cautiously. I would suggest, Ambassador Bond, that you have used it extremely cautiously, and that is perhaps why we are here today. And so I mean that as a caution that you can take back to the Secretary and suggest that not only are we looking at this but we expect real progress. And by that, I know the difficulties you have with diplomacy and how it is most of the time a carrot, not a stick, but it sounds like we are using a lot more carrot than stick. Does that make sense?

Ms. BOND. Yes. What we are using is the power of persuasion, pointing out —

Mr. MEADOWS. Yes, but let me just be frank is if you were speeding and you have a law enforcement officer who pulls you over for speeding constantly and you never get a ticket, the typical person will continue to speed if they never get a ticket. And for 7 years you have never given a ticket. You have never really invoked the powerful tool that is at your disposal.

And so it sends a chilling message to many people who say we will listen, we will take their calls, we will be polite, but there is no incentive for them to take back these criminals other than being nice and the little bit of pressure.

So here is what I am asking you to do is to report back to this committee on those that are making progress because you said if they are making progress, we don't invoke it, so that would say that you are making progress on all those areas. We need to understand what the progress is, and even if we need to do that confidentially, we are willing to do that. Are you willing to do that in 6 months to help us understand this a little bit better?

Ms. BOND. Yes.

Mr. MEADOWS. All right. Thank you.

Mr. Ragsdale, you are a very eloquent speaker, and you have said a number of things, but let me tell you where I am concerned. And I love my law enforcement officers. In fact, you won't find anybody in Congress who loves their law enforcement officers more than this guy right here. Here is what I am hearing from the ground. As much as you say, well, we are being diligent and we are doing it all, there is a real frustration within ICE that you are handcuffed with regards to actually dealing with this problem.

And when you say that you don't know if any of the people that you have released were on the terrorist watch list, that is very concerning to me that you wouldn't check it against that because you said we did a full background check I think is what you said, is that correct?

Mr. RAGSDALE. So, no, let me be clear. If—we would have cleared every single release against all appropriate databases. I didn't specify which ones, but I will assure you, it is also—it includes national security —

Mr. MEADOWS. So have you released people who have been accused of murder and rape?

Mr. RAGSDALE. So —

Mr. MEADOWS. I know the answer so go ahead and you can —

Mr. RAGSDALE. Yes. So the answer is yes, and I think the thing

—
Mr. MEADOWS. So how —

Mr. RAGSDALE. Those are two very, very different things.

Mr. MEADOWS. I understand that, but it doesn't make my neighborhood feel any better if you are releasing murderers and rapists than it would be terrorists.

Mr. RAGSDALE. And we are as frustrated as you are, but let's be clear —

Mr. MEADOWS. So —

Mr. RAGSDALE.—there are distinctions —

Mr. MEADOWS.—what do you need?

Mr. RAGSDALE. So our —

Mr. MEADOWS. What do you need?

Mr. RAGSDALE. Our detention authority, after the Supreme Court has ruled on this issue, is only for the purposes of removal. We do not have preventative detention. So if —

Mr. MEADOWS. Well, hold on just a second because I looked that up because after you mentioned that I went to look it up, and it says that you can hold them for 6 months —

Mr. RAGSDALE. Correct.

Mr. MEADOWS.—if there is no reasonable likelihood of them being removed. Now, during that 6-month period of the Department of Homeland Security sends her a notice, there is a reasonable likelihood that they will be removed. And yet there hasn't been a single solitary notice to the Department of State from the head of your agency. Why is that?

Mr. RAGSDALE. Well, again, I'm not sure I would agree with that characterization.

Mr. MEADOWS. Well, has Jeh Johnson ever sent them a notice?

Mr. RAGSDALE. So the head of our department—so this is what we've done —

Mr. MEADOWS. Answer it yes or no. Has Jeh Johnson ever sent anything to the Department of State?

Mr. RAGSDALE. Not to my knowledge for 243(d) sanctions, but, as you know —

Mr. MEADOWS. Exactly.

Mr. RAGSDALE.—there's a 2014 letter —

Mr. MEADOWS. So —

Mr. RAGSDALE.—in the record —

Mr. MEADOWS. So is —

Mr. RAGSDALE.—on this point.

Mr. MEADOWS. So is it your testimony here today that it is okay to release murderers and rapists into society without doing anything about it?

Mr. RAGSDALE. Absolutely not.

Mr. MEADOWS. I agree. So —

Mr. RAGSDALE. And what's also clear is —

Mr. MEADOWS. So the point —

Mr. RAGSDALE.—what I can't do, sir, is detain people indefinitely. I just want to be clear that we are proposing, you know, the fact with reality.

Mr. MEADOWS. But the ruling is very clear. If —

Mr. RAGSDALE. We will —

Mr. MEADOWS. So do I have your commitment that you will lobby Secretary Johnson that if you are holding him for more than 6 months that he will make a referral to the Department of State —

Mr. RAGSDALE. I have briefed the Secretary on this issue personally. That is what—one of the things that prompted the letter.

Mr. MEADOWS. So he said he wouldn't do that.

Mr. RAGSDALE. He did not say that.

Mr. MEADOWS. So when are we —

Mr. RAGSDALE. In fact, I think in front of the Senate Judiciary Committee last week he noted that 243(d) sanctions were something that he is in fact considering.

Mr. MEADOWS. Well, at one point does it get elevated to a level where it makes a difference? Because her testimony said is her number one priority is make sure that Americans abroad are safe. I find that very difficult—I want to make sure that Americans here are safe as well —

Mr. RAGSDALE. And we —

Mr. MEADOWS.—and unless you are doing your job, it is not going to happen.

Mr. RAGSDALE. Sir, you have no disagreement. We completely agree.

Mr. MEADOWS. All right. So here is what I would ask you to do. Are you willing to commit—last question, Mr. Chairman. Are you willing to commit to start putting on the Internet the number of people that you release that have criminal backgrounds on a monthly basis?

Mr. RAGSDALE. We will certainly take that for consideration and talk to our folks in terms of—rolled up data, we probably could do, yes. We—there's obviously some legal constraints in how much data we can actually put out there.

Mr. MEADOWS. There is no constitutional problems. They are not U.S. citizens. I will yield back.

Mr. RUSSELL. The gentleman yields back.

We are pleased to welcome and recognize the gentleman from Connecticut, Mr. Courtney, for 5 minutes. Welcome.

Mr. COURTNEY. Thank you, Mr. Russell. And I want to thank the chairman and the ranking member for allowing me to sit in on this hearing.

And as was mentioned at the outset, I come from the district where Casey Chadwick lived when she was murdered in a case that falls squarely in the purview of today's proceedings. And it is obviously something that in Connecticut people are watching intensely and again are still very frustrated about sort of the unfolding facts that have emerged since that horrific incident occurred.

Mr. Chairman, I don't know if the inspector general's report was formally entered into the record for these proceedings, but I would ask, again, unanimous consent to have the IG's report admitted.

Mr. RUSSELL. Without objection, so ordered.

Mr. COURTNEY. Thank you. And, again, I was here for the opening testimony, and I would just say anyone who reads the IG's report and compares it with the opening testimony, it paints a far different picture in terms of what the IG found. And again, they intend to probe deeper with a second phase in their report.

So, for example, on page 4 of their report, you know, they kind of go into the nature of the integration or interaction between DHS and the Department of State. It is virtually nonexistent in terms of the picture they painted. The case of Mr. Jacques is a case where, again, the State of Connecticut did everything right. They convicted this individual for attempted murder back in 1996, served 16 years, was released into the custody of ICE. There were three unsuccessful attempts that were rebuffed by the country of Haiti, and a decision was made by really lower-level folks that, again, he should not be detained any further because there did not appear to be a likelihood of repatriation. Again, that was done with absolutely no consultation with the Department of State.

When asked, the deportation officer's response was that it was their understanding that only cases of terrorism and national security would be elevated to State for the purpose of, again, pushing back against, you know, that nation state.

So I guess, again, just for the record, you know, Ms. Bond, again, there is no limitation in terms of State's discretion in terms of using either visa suspension or letters demarche or whatever in terms of pushing back on an individual case, is that right?

Ms. BOND. That's correct. And we would engage with a foreign government on any individual case, as well as on the broader subject.

Mr. COURTNEY. Right. So as the inspector general determined, I mean, there clearly is a real problem in terms of the policy level of awareness in terms of deportation officers and people making decisions at DHS about whether to move it up the food chain. So whatever the memorandum of understanding is between the two departments, I mean, what this report shows is just a totally dysfunctional implementation of the two departments working together in these very difficult cases.

The other finding that they made was that the case load of the deportation officers in Newark, which is where Mr. Jacques was being supervised, was that there were three or four deportation officers assigned to approximately 37,000 released aliens. Again, a number of us have worked in the court systems and understand what that means in terms of whether you are a probation officer or a parole officer or a public defender.

I mean, the notion that four deportation officers could coherently manage that number of cases both in terms of supervision in the community, as well as following up on repatriation, I mean, there is clearly, sir, Mr. Ragsdale, a management problem in terms of, you know, really creating a situation that is totally mission impossible. I mean, I don't care how smart or capable a deportation offi-

cer is. You can't manage a caseload like that. Are they wrong or is that what you are seeing out there?

Mr. RAGSDALE. No, I think you have characterized that part of the report correctly. I mean, it is a daunting challenge. You know, there is certainly some recommendations in that IG report that we will look at very closely. That IG report did not make recommendations formally, but there are certainly some things in there that need to be jumped on immediately. And we are —

Mr. COURTNEY. So —

Mr. RAGSDALE.—absolutely doing that. And certainly —

Mr. COURTNEY. Well, the Connecticut delegation just sent a letter to Director Saldana about the fact that, you know, this is something that she does not need Congress to act on. And frankly, the fact that anybody who manages an agency or department wasn't aware of that kind of caseload disparity, I mean, that just screams out dysfunction when you just look at those numbers.

Again, the other, you know, again, finding was that there really, again, needs to be a change in terms of training and education of deportation officers. So, I mean, those two factors alone in terms of caseload and training just gets us to a point where we can intelligently implement the memorandum of understanding.

If you have got a situation right now where people on the ground whose job it is to supervise these cases don't know what the policies are and can't even really intelligently do it because of overwhelming caseload, then the memorandum of understanding, it is just a—it is a dead letter. It doesn't mean anything.

And that is why, frankly, I will just tell both of you the testimony that you have delivered here today in the wake of the IG's report—in my district where we saw the horrific consequences of a system that clearly didn't do its job, I mean, it is almost offensive to listen to it because it is so divorced from the reality that the IG found. And obviously, you know, the consequences are something that are being felt by this family to this date.

So, again, I think there is going to be legislation that is going to really stiffen the mandated reporting requirements between DHS and State because clearly that is not functioning pursuant to the memorandum of understanding. And frankly, your department, Mr. Ragsdale—I don't mean you personally—but they have got to do a better job of getting this game up in terms of understanding what the rules are, put some metrics in place about people who really deserve to be prioritized in terms of their dangerous criminal history, and that clearly just did not happen.

And again, I want to thank the committee for giving this case an opportunity to be fleshed out. And, you know, we have got work to do. And again, it is not partisan. The issue of immigration rises above that because if we can't function in these kinds of cases the way—the public support for any kind of immigration system is going to collapse.

I yield back.

Mr. RUSSELL. We thank the gentleman for being with us here today, and the gentleman yields back.

I will now recognize myself for 5 minutes.

Mr. Ragsdale—and first, let me thank both of you for your distinguished service to our country. It is greatly appreciated.

As you can see here today, this is not a partisan issue. This is an American issue. Security is absolutely paramount. And each of you have, in the scope of your responsibilities, an authority, a direct means to impact it. Mr. Ragsdale, you spoke that regulations had been issued to allow for detention exceptions in special circumstances in your testimony. And you also said that you had faced significant legal challenges with your department in Federal court, and thousands of criminals had been released as a result. What is the basis of the challenge that you are receiving from Federal court, and what provisions of law can Congress change to assist in solving the problem?

Mr. RAGSDALE. I think all of this has to be considered in light of the Constitution, the Fifth Amendment's due process clause. It applies to individuals, does not necessarily have to be citizens. So indefinite detention is something the Constitution does not permit.

The—our authority to detain people, whether it's before we have a removal order or after, is related to our ability to process them and ultimately remove them.

Mr. RUSSELL. So what can —

Mr. RAGSDALE. It is not for preventative detention except —

Mr. RUSSELL. And we understand the lengthy detentions, in fact, not just in terms of, you know, unauthorized aliens that are in our land that have committed criminal activity but we see it on a number of other issues with national security. What can Congress do within the scope of the Constitution and these precedents that we have had in the past to allow you to do your job? This isn't the first time since we have been wearing tricorne hats that we have dealt with criminals that are illegally in our country.

Mr. RAGSDALE. Again, certainly this hearing is helpful. Putting pressure on countries abroad to issue travel documents solves the problem from the right angle. It is not a question of necessarily more detention, but it is the speed in which we can remove people. So I think that is particularly helpful.

Again, I very much take the point from the Representative from Connecticut. There are things we can do better, and we need to redouble our efforts with the State Department to put pressure on countries to issue travel documents.

Mr. RUSSELL. Well, in that regard with the State Department, now, there has been testimony here today that no real direct request from State Department have been forthcoming to address some of this issue, yet in April ICE director Sarah Saldana stated that with respect to the so-called recalcitrant countries that ICE is working through diplomatic channels with its partners at Department of State to increase repatriations to the previously noncompliant countries and that progress had been made.

So my question to you, Madam Ambassador, is this. With which recalcitrant countries has the situation improved?

Ms. BOND. If we look specifically at—to, for example, of the countries that Director Saldana raised specifically in letters to us this spring, we are seeing response from Guinea and from Liberia to resume or accelerate the removal—identification and removal of their citizens. There's a team from Guinea that has arrived this week to finalize an MOU with the U.S. Government and to look at specific cases, interview specific individuals to make a determination of

whether they are citizens and then document them. So those are two examples of countries where ICE has on the record—but it didn't come as a surprise because we're working together, but they said we are very concerned about these countries and want to see greater pressure brought to bear. And we are seeing the results of that pressure.

Mr. RUSSELL. Okay. Both of you I know, and you have stated here, and we have certainly seen the view from the members' questioning today believe that no criminals from foreign countries should be released into the American public. I mean, we all believe that. You have stated that. And so my final question to both of you is what are you willing to personally do to prohibit these individuals from remaining in our country within the scope and power of your current position? Madam Ambassador?

Ms. BOND. We've described the fact that we work very closely with ICE on these cases. One of the things that I want to do is to look at taking members of my staff and actually having them work directly, let's say, at ICE so that they're seeing the individual cases and considering are there elements of this where we might be able to take some action or are there elements of this and the other cases where we might be able to say to a foreign government this aspect of this case clearly shows that you need to take action on this. In other words, what I'm looking at is how can we work even more closely together so that where there are opportunities to move a case more quickly, it'll be spotted and we can take that action.

Mr. RUSSELL. Okay. Mr. Ragsdale?

Mr. RAGSDALE. So in addition to everything the assistant secretary said, you know, we need to make sure that every single one of our officers is responsible for this process, is equipped with the best tools to do their job. And clearly, that is with the access to what Consular Affairs can do but even in terms of best practices around the country where we have consuls located in certain cities that are more amenable to issuing travel documents, making sure that we are physically putting in individuals who appear to be—from a country that's recalcitrant in front of a consular officer, and then also just to make sure that our guidance is fully updated. We will again carefully look at what the IG has done and what the follow-on report has done and make sure that every best practice is fully implemented.

Mr. RUSSELL. Well, I thank you for those answers. And while the formal questioning is complete, I would like to recognize Ranking Member Cummings for any final thoughts from today's hearing.

Mr. CUMMINGS. Thank you very much, Mr. Chairman.

I think it is abundantly clear, as I said a little bit earlier, that we can do better. I want to thank Mr. Courtney for being a part of all of this. This is one case that shows how serious this situation is and how, when there is failure—and I do consider there are some failures here, something went wrong, a lot went wrong—but we have got to deal with this. And I know we have the power to do it, and we have got to put our minds together and do better.

So often in this committee we are divided on partisan lines unfortunately. And when we have issues where we see things in a bipartisan way, you know, which is wonderful, then I think that that should tell everybody something. And what it should tell you is

that we are very, very serious about this, and all of us have very genuine concerns.

And so I am looking forward to hearing about progress. It is one thing to talk. It is another thing to deliver. And it is one thing to make excuses. It is another thing to carry out the letter of the law. And if the law is not sufficient, we need to know that because it is up to us to create those laws so that you can do what you have to do effectively and efficiently.

And so I thank you two for being here, and I look forward to hearing about the significant progress that you will be making. Thank you very much. And thank you, Mr. Chairman.

Mr. RUSSELL. We thank the ranking member for those comments, and I would like to, you know, agree with that. We know it is a difficult problem, but here is a great opportunity. We have virtually this entire committee, we have people outside of our committee, we have broad bipartisan support to do nothing but aid and assist your efforts.

What we need is a commitment that where there are roadblocks, where there are obstacles, with this much political will and with this much American public desire, there ought to be nothing that would stop us in a case of solving these problems. It is not insurmountable.

And so my challenge to each of you would be within the scope and the authority that you have been blessed to have as officials in this great republic, don't try to find ways that you can't get around or just accept that as some obstacle. You have the will of the American people behind you. You have the help of this committee. You have the help and aid of bipartisan effort in this Congress. We cannot take no for an answer because when we do, what happens is that the faith of the American public in our institutions erodes. And if we lose that, then our problems are far greater than the issue that we have discussed at length here at hand.

I want to thank our witnesses for their patience and their thorough answers. We still have work to do, and there are a lot of unanswered things that we have requested. And I would ask that you show due diligence to get that to us. Oft times we come to this committee and we have promises and we don't see those reports. Please take due care and diligence to get that to us. But thank you for taking your time to appear today.

And if there is no further business, without objection, the committee stands adjourned.

[Whereupon, at 12:07 p.m., the committee was adjourned.]

APPENDIX

MATERIAL SUBMITTED FOR THE HEARING RECORD

Immigration and Nationality Act Section 243(d):
Discontinuing Granting Visas to Nationals of Country
Denying or Delaying Accepting Alien

Section 243(d) of the Immigration and Nationality Act (INA) specifically provides that, upon notification by the Attorney General (now by the Secretary of Homeland Security), a “foreign country denies or unreasonably delays accepting an alien who is a citizen, subject, national, or resident of that country after the Attorney General (now the Secretary of Homeland Security) asks whether the government will accept the alien under this section, the Secretary of State shall order consular officers in that foreign country to discontinue granting immigrant visas or nonimmigrant visas, or both, to citizens, subjects, nationals, and residents of that country until the Attorney General (now by the Secretary of Homeland Security) notifies the Secretary that the country has accepted the alien.

**OFFICE OF INSPECTOR GENERAL**

Department of Homeland Security

Washington, DC 20528 / www.oig.dhs.gov

June 16, 2016

MEMORANDUM FOR: The Honorable Jeh C. Johnson
Secretary

The Honorable Sarah Saldaña
Director
U.S. Immigration and Customs Enforcement

FROM: John Roth 
Inspector General

SUBJECT: Jean Jacques

On November 24, 2015 we received a request by Senators Richard Blumenthal and Christopher Murphy, and Representative Joe Courtney, to investigate the circumstances by which Jean Jacques, a Haitian national previously convicted of attempted murder and subject to a final order of removal, was released from the custody of Immigration and Customs Enforcement (ICE). Jacques killed another individual, Casey Chadwick, while on release. Our objective was to conduct a factual inquiry regarding the incident, to determine whether ICE adhered to its policies in the release and supervision of Jacques and whether such policies are sufficient to ensure the effective enforcement of U.S. immigration law.

As part of this assessment, we conducted approximately 30 interviews of individuals at ICE Headquarters as well as the Boston, Baltimore, Hartford, and Newark Field Offices. We also reviewed records provided by ICE, including emails, policies, training materials, and Jacques' immigration A-File¹. From these materials, we were able to establish a

¹ An alien file, otherwise known as an A-file, is the collection of documents maintained by the Department of Homeland Security on non-citizens. An A-file typically contains official files related to the alien's immigration status, citizenship, and removal and includes documents provided by the alien as well as investigations, statements, correspondence, and memoranda created by the agency.



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timeline of action taken by ICE with respect to Jacques, attached to this report as Appendix A.

We are undertaking a second phase of this review, in which we will determine whether the issues we identified in the Jacques case are more widespread in ICE's Enforcement and Removal Operations. Specifically, our objective will be to determine whether the Department of Homeland Security Enforcement and Removal Operations has cohesive policy and procedures to remove priority level one aliens on the non-detained docket and to identify systemic factors that may hamper removal efforts. These factors may include employees' workloads, inadequate policy guidance and ICE's priorities for deporting individuals. We will limit our review to actions to deport non-detained individuals.

Attachments



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Executive Summary

In conducting this review, we found that:

- After his release from state custody, Jacques was held in ICE custody for about 205 days. During this period of custody, the ICE Enforcement and Removal Operations (ERO) Boston Field office conducted two Post-Order Custody Reviews and decided to continue to hold Jacques in custody.
- During Jacques' detention, ERO Boston and the Headquarters-based Travel Document Unit (TDU) made three attempts to remove Jacques to Haiti. The removal efforts included setting up an interview between Jacques and a Haitian consulate official as well as completing a sworn statement signed by Jacques identifying, among other things, his Haitian family members.
- Because Jacques did not possess a Haitian identification document, the Haitian government rejected all three repatriation requests. While there are standard practices and informal arrangements regarding repatriation, there are no written agreements between the two countries on this issue. ICE could not retrieve Jacques' birth certificate from Haiti, as they are not public documents.
- As Jacques' period of detention approached 180 days, the ERO Headquarters Post Order Custody Review Unit (POCR Unit) conducted a custody determination assessment. Consistent with ICE policy following the Supreme Court's ruling in *Zadvydas v. Davis*, and 8 C.F.R. §§ 214.13 & 214.14, ERO officials determined that it could not continue to detain Jacques because, in their judgment, there was no significant likelihood of removal in the reasonably foreseeable future.

While not explicitly required by existing ICE policy, ERO could have taken some additional steps to achieve Jacques' removal to Haiti while Jacques was still in ICE custody. However, we cannot conclude that those steps would have resulted in Jacques' removal from the United States.

- ERO Boston did not attempt to contact Jacques' family members living in the United States or search those individuals' A-files to



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strengthen Jacques' repatriation request. However, ICE ultimately learned, after Jacques' arrest for murder in 2015, that Jacques' mother had lost all of his Haitian identification documents.

- ERO did not elevate to the State Department Haiti's refusal to accept Jacques, a course of action provided for in ERO's removal guidelines. ERO officials believed that the Department of State would not intervene to encourage a foreign country to accept a violent offender like Jacques. ERO believed that the State Department's involvement was typically limited to aliens engaged in terrorism or human rights violations. Although we did not interview State Department officials about this, we have no basis to believe that ERO's experience in this area was unfounded.
- Following Haiti's third rejection, a Haitian government official advised ERO to contact the Haitian consulate in Miami to request a travel document. There is no record that ICE ERO made this request. However, ERO officials had previously made hundreds of similar requests to the Haitian consulates for travel documents without success, and we have no reason to believe that the Jacques matter would have been different.

Jacques' removal from custody effectively ended ICE's efforts to remove him, and his supervision while on release was minimal and ineffective.

- The caseloads of Deportation Officers (DOs) in the field make personalized follow-up with the aliens under their supervision functionally impossible. At ERO Newark, for example, there are between three and four DOs assigned to approximately 37,000 released aliens.
- In addition to the heavy caseload, there is no evidence that ICE used a risk-based analysis for managing caseloads, which would have them expending more time and attention on more dangerous aliens. Instead, officers in the field told the OIG that they prioritized cases primarily based on the possibility of removability.
- Following Jacques' release from custody, there is no evidence of DOs at ERO requiring that Jacques acquire additional documents that might have assisted in his removal, even though they had the power to compel him to do so.



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- Jacques' conduct after release from ICE custody indicated a poor reporting history and violations of state parole conditions. After his release from state custody for parole violations in January 2015, he was released to ICE custody. ICE again found that there was no significant likelihood of removal in the reasonably foreseeable future, and again released Jacques.
- A DO has few tools available to supervise even an alien with a violent criminal history, such as Jacques. For example, ICE's Alternatives to Detention (ATD) Program places conditions on aliens released from custody, such as electronic bracelet monitoring and home visits. However, the program is only available for aliens who are removable in the foreseeable future. Additionally, the tools available in ATD are used as a means of ensuring a removable alien complies with court orders and does not flee, and the ATD Program is not aimed at deterring future criminal behavior.

Finally, the OIG also identified broader issues affecting removal efforts:

- Removal policies, procedures, and guidelines do not appear to be effectively disseminated to field staff. Most of the ERO officers OIG spoke to in the field, for example, were unaware of the existence of the Detention and Removal Operations Policy and Procedure Manual (DROPPM), which contains guidelines for removal.
- The OIG also identified a disconnect between how headquarters and field officers viewed removal efforts. While officers at headquarters acknowledged that Haiti was one of the more cooperative countries in assisting with removals, the view by many officers in the field was that removal to Haiti was exceedingly difficult, if not impossible.

Discussion

Jean Jacques' History Prior to ICE Custody

Knowledge of Jean Jacques' life prior to his arrival in the United States was gathered from sworn affidavits in his request for asylum into the United States. According to his affidavit, Jacques was born in Haiti on October 3, 1974 and was raised in Port-au-Prince. In 1992, after his father was killed, Jacques fled Haiti and was interdicted at sea by the



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U.S. Coast Guard on April 29, 1992. At the time of his arrival to Guantanamo Bay, Cuba, Jacques did not possess any documents on his person identifying him as a Haitian citizen.

Jacques was paroled into the United States on July 6, 1992.

In connection with a 1996 shooting in Norwich, Connecticut that left one dead and another injured, on June 9, 1997, Jacques was convicted of attempted murder and possession of a firearm without a permit. He was sentenced to 20 years of imprisonment in Connecticut state custody.

While in Connecticut state custody, the Immigration and Naturalization Service served Jacques with a Notice to Appear on May 15, 2001. On November 5, 2002, an Immigration Judge ordered that Jacques be removed to Haiti. Following an appeal and a motion to reconsider, Jacques was issued a Final Order of removal on January 6, 2010.

Release Into ICE Custody

After serving fifteen years in prison, on April 18, 2012, the Connecticut Department of Corrections released Jacques to serve the rest of his sentence on probation. Having received a Final Order of removal, Jacques was accordingly released into the custody of the ICE Enforcement and Removal Operations (ERO) Boston Field Office.² Jacques' initial release was processed by the ERO Hartford Field Office, which falls under the organizational umbrella of ERO Boston. An Immigration Enforcement Agent at ERO Hartford completed the required booking procedures to enter Jacques into ICE's custody, noting on the booking paperwork that Jacques' property would be released to his brother. The brother's New Jersey address was recorded on this document. On the same day, Jacques was transferred to the office in Burlington, MA and then to the Bristol County House of Corrections, a state facility located in North Dartmouth, MA.

Upon entering ERO custody, Jacques signed a document entitled "Instruction Sheet to Detainee Regarding Requirements to Assist in Removal" and agreed to take a set of actions in order to assist in obtaining a travel document. The tasks listed on the instruction sheet, which has been attached as Appendix B, are described as "mandatory

² ERO enforces the nation's immigration laws by identifying, arresting, and removing aliens who enter the United States illegally or who present a danger to national security or are a risk to public safety. ERO Boston, which is based out of Burlington, MA, oversees the region that includes Connecticut, Maine, Massachusetts, Rhode Island, New Hampshire, and Vermont.



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requirements.” Jacques also completed the I-217 Information for Travel Document or Passport form to request a new identity or travel document from the Haitian consulate. On the I-217 form, Jacques indicated that he was not in possession of a travel document or passport at the time of entry into the United States.

ERO Responsibility in Obtaining a Travel Document

While the alien has an obligation to seek out the necessary documentation to achieve removal, ERO officers must also take action to secure the alien’s removal. ERO’s responsibilities in obtaining travel documents for aliens are described in the Travel Document Handbook, contained within Chapter 16 of the DROPPM, titled “Removal Process: Preparations for Travel Within 90 Days of Final Order.”

According to training materials produced for the ERO Field Offices (POCR Training)³, it should be ERO’s goal to “exhaust[] all avenues to obtain a [travel document] and/or [to] effect[] the alien’s removal.” The Chief of the ERO Law Division also acknowledged that ERO efforts to obtain a travel document should be more rigorous when the underlying crime committed by the alien or risk to the public is more serious.

Chapter 16.1 of the DROPPM outlines the suggested timeline and actions that the field office should take to prepare a request for travel documents:

Within two weeks of the alien receiving his/her final order, make your travel document request....To prepare a request for travel documents, consult as many sources as you need to verify the aliens [sic] identity. Talk with the alien and, if applicable, family members. Check their files. Check the Non-Immigrant Information System (NIIS) for entry information and passport number. If still in doubt, contact the International Criminal Police Organization INTERPOL.

The POCR Training recommends an even quicker turn-around for submitting a travel document request – within seven days of the alien’s arrival.

³ This training was provided to ERO Boston in February 2012 as part of an effort to inform ERO field office staff of the removal procedures described in the DROPPM and promote consistent procedures throughout the ERO offices.



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Chapter 16.1 of the DROPPM also instructs the DO to “call for a status report at least every 30 days until the document is issued or the case is closed.” The POCR Training materials again recommend a shorter timeframe of 15 days to track the issuance of the travel document.⁴

As described by the Chief of the ERO Law Division, the DROPPM does not set minimum requirements for ERO efforts to establish an alien’s identity. There is no requirement that officers contact family members or reach out to other law enforcement agencies to facilitate removal of the alien. On the contrary, the steps taken by each officer to achieve removal are discretionary and depend on the circumstances.

Attempts to Remove Jacques While in ICE Custody

ERO Boston assigned a DO to pursue Jacques’ removal and repatriation to Haiti.

On May 7, 2012, fewer than 30 days after Jacques entered ICE custody, ERO Boston completed a Post-Order Custody Review (POCR) Worksheet. According to ERO Boston, the POCR Worksheet is a review typically completed after an alien is in custody for 90 days and then periodically throughout an alien’s detention to determine if ERO should continue to detain the alien. The review evaluates the alien’s case, criminal and travel document histories, as well as whether the alien meets the criteria for continued detention under 8 CFR 241.14.⁵ The DO completing the POCR worksheet recommended that Jacques “remain in custody while removal efforts continue.” The Boston Field Office Director (FOD) accepted the recommendation and decided that Jacques would remain in custody.

As part of what was described to us as the standard practice for Haitian removals, on May 7, 2012, ERO Boston compiled a travel document request packet,⁶ uploaded the packet to the electronic travel document

⁴ This particular guidance does not appear to apply directly to Haitian removals; the standard practice was to work directly with the Haitian government because consulates were not issuing travel documents.

⁵ This process is discussed in greater detail later in this memorandum.

⁶ The packet included the following documents: Warrant of Removal/Deportation (Form I-205); Order of the Immigration Judge; Warning to Alien Ordered Removed or Deported (Form I-294); Notice to Appear (Form I-862); Information for Travel Document or Passport (Form I-217); Fiché Signaletique du Deporte (Haitian travel document application); Copy of Application; Copy of Criminal Conviction Document; and Biometric Information.



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system (eTD), and engaged the ERO Headquarters Travel Document Unit (TDU), located in Washington, D.C., to assist with Jacques' removal.⁷ ERO Boston explained that for Haitian removals, the TDU took the lead on interacting with the foreign government and would contact the field officer if the travel document request packet needed to be supplemented.

The TDU subsequently added Jacques' name and travel document request packet to a deportation manifest for removals to Haiti scheduled for a charter flight, scheduled for departure on June 19, 2012. At the time, the Assistant Attaché for Removals (AAR) to Haiti was based in the Dominican Republic and made bi-weekly trips to Haiti to present the manifest for removals to the Haitian government. When given approval from the Haitian government, this manifest becomes the travel document needed to repatriate Haitian citizens. The Haitian government determines which of the aliens are approved for repatriation and accepts a charter flight of up to 50 Haitian immigrants each month. The TDU explained that it would often provide a manifest with more than 50 aliens to ensure that the plane was always full, knowing that the Haitian government would frequently deny repatriation for some on the manifest.

The purpose of the AAR's visits to Haiti, according to the TDU, was solely to speak with the Haitian government and present the available documentation for the aliens seeking repatriation. As a United States citizen, the AAR was not granted access to the Haitian record archives to attempt to obtain identity documents.

On May 29, 2012, the AAR delivered the manifest with Jacques' name to the Chief of the Department of Political Affairs and Human Rights, Ministry of Interior and Collective Territories for Haiti (Chief of Political Affairs). During the AAR's tenure, the Chief of Political Affairs was the TDU's main point of contact in the Haitian government. On June 5, 2012, the Chief of Political Affairs notified the AAR via email that Jacques was "not approved" for repatriation to Haiti. As a result, Jacques was not on the June 19 flight.

ERO Boston and the TDU made their second attempt to remove Jacques on June 26, 2012. They submitted the same travel document request packet and included Jacques' name on a manifest for Haitian removals scheduled for an August 2012 charter flight. Once again, the AAR

⁷ The TDU supports the field offices to ensure the safe and orderly removal of aliens from the United States. The unit assists the field in taking the necessary steps to facilitate the removal of aliens to their designated countries as it has established points of contact with consulates, embassies, and government officials throughout the world.



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presented the manifest for removal to the Haitian government. On August 7, 2012, the Chief of Political Affairs verbally informed the AAR that Jacques would not be accepted because he did not possess sufficient documentation to prove his Haitian citizenship. The Chief of Political Affairs reaffirmed these denials by email on August 16 and August 20, 2012.

On September 4, 2012, ERO Boston completed a second POCR Worksheet. When asked to “[l]ist ICE attempts to obtain travel documents and status” on the worksheet, the DO assigned to Jacques’ removal commented:

ICE did all the necessary paperwork and interviews to obtain a [travel document] from the Haitian Government but the subject was denied entry to Haiti in August. A [travel document] will not be issued for the subject by Haiti at this time.

The DO recommended that Jacques be released from custody “[b]ecause removal of the subject is not possible.” ERO Boston FOD rejected this recommendation and ordered that Jacques continue to be held in ERO custody. Accordingly, on September 10, 2012, ERO Boston served Jacques with a Notice of the Decision to Continue Detention.

Before ERO Boston and the TDU made a third attempt to remove Jacques, the AAR emailed the TDU about the aliens who were denied repatriation in August 2012 (including Jacques), stating:

I would suggest having someone interview them again and try to get names of schools attended, names and address of family living in Haiti and passport info if one was issued.

Accordingly, Jacques’ DO, along with an Immigration Enforcement Agent, conducted an interview and drafted a sworn statement signed by Jacques on September 17, 2012. In this statement, Jacques swore to the veracity of additional facts to help prove his Haitian citizenship. Jacques listed his place of birth and citizenship as Haiti, provided the name of the school he attended in Port-au-Prince, and gave his parents’ names, identifying them both as Haitian citizens. He also included the names and last known places of residence for his brothers and sisters: a sister in Florida, a sister in Haiti, a brother in Elizabeth, NJ, and a brother in New Jersey.



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Jacques' DO entered one brother's name and telephone number in the ENFORCE Alien Removal Module (EARM).⁸ There is, however, no record in Jacques' A-file or the EARM to indicate whether anyone at ERO Boston attempted to contact Jacques' family members or consulted their A-files in his removal efforts. The DO assigned to Jacques' case during his detention did not recall whether anyone at ERO Boston took such action.

In September 2012, the TDU also asked ERO Boston to reach out to the local consulate to see if it might have any better luck in requesting a travel document. ERO Boston connected with an official at the local Haitian consulate who agreed to meet with Jacques on September 17, 2012. ERO Boston was not aware of the nature or length of the discussion between Jacques and the Haitian official, just that the meeting took place at the field office in Burlington. Jacques' DO in Boston could not recall any prior instance of a consulate official coming to the field office to meet an alien.

ERO Boston added the sworn statement to the previously submitted travel document packet, and the TDU added Jacques' name to a manifest for removals to Haiti scheduled for October 2012. The AAR presented the manifest to the Haitian government and received verbal confirmation from the Chief of Political Affairs on October 1, 2012, that Jacques was accepted for repatriation. On October 4, 2012, however, the Chief of Political Affairs notified the AAR via email that the request to repatriate Jacques would again be denied, stating:

For Jean Jacques Jean Ives, the informations that we had aren't sufficient. We can't receive him. Get hold of again him and contact the Haitian Consul in Miami for the Government Identifications. We'll can receive him, after, on the ulterior flight. [sic]

Upon receipt of these comments, the TDU emailed the AAR and stated, "[t]he consulate has not issued anything in a year. Over 300 cases have been sent to consulates." There is no indication of whether ERO contacted the Haitian consulate in Miami.

Unique Challenges to Haitian Removals

⁸ The EARM is a case management tool that supports ICE's processing and removal of alien's from the United States. EARM tracks the status of alien removal proceedings, provides personal identifiers, and allows an ICE official to view and update the alien's history during the removal process.



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The Detention and Deportation Officer (DDO) who was responsible for overseeing Haitian removals at the TDU told us that compared to other countries, Haiti was relatively cooperative with respect to their removal assistance. Although we did not have information to verify the figure, in the DDO's experience, the Haitian government approves more than 95% of repatriation requests and responds to communications from ICE in a reasonable manner.

According to that same DDO, the removal process can be more complicated and delayed for Haitian aliens without proof of identity or travel documents. The DDO explained that the Haitian removal process hinges upon the government of Haiti granting travel authorization by accepting the deportation manifest. When submitting this manifest, ERO must demonstrate that the aliens possess what the Haitian government considers sufficient identification documents to verify their Haitian citizenship.

Unfortunately, ERO has not received a formal list of mandatory documents that must be provided in order for the Haitian government to recognize an alien as a Haitian citizen. While there are standard practices and informal arrangements when dealing with the government of Haiti to repatriate its citizens, there are no written agreements outlining the process of removing an individual to Haiti. Furthermore, Haitian birth certificates are maintained in the archives in Haiti, and, since they are not regarded as public documents, they are inaccessible to United States citizens. The AAR for Haiti stated that ICE would like to employ a Foreign Service national in Haiti who might be able to access these records, but has not yet received approval to do so.

No Opportunity to Appeal Haitian Refusal to Repatriate

If an alien is denied repatriation to Haiti, he can be resubmitted on subsequent manifests. There is no appeal process with the Haitian government. According to the ERO Law Division, only the Department of State has the tools necessary to leverage a foreign country into accepting a deportee. Pursuant to Chapter 16.2(b) of the DROPPM, "when a foreign country refuses to accept, or unduly delays acceptance, of its nationals found to be deportable from the United States," ICE may notify the State Department, which in turn "may suspend immigrant and nonimmigrant visa issuances" for the country. These reports to the State Department should "[i]nclude the date and time of every attempt to obtain a travel



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documents, the names of consular officials involved, names of aliens affected, and other relevant details.”

Following Haiti’s several denials, Jacques’ name was never reported to the State Department. As the relevant section of the DROPPM itself notes, “cooperation is always preferred to conflict and sanction.” In the experience of the Chief of the ERO Law Division, furthermore, the State Department would not threaten the use of sanctions for violent offenders like Jacques, but rather more typically uses leverage if the alien has committed acts of terror or human rights violations. According to the TDU, in the case of an alien like Jacques, ICE must build positive working relationships with those foreign government officials who have the power to deny requests for repatriation.

Release from Custody

Under Section 1241(a)(6) of the Immigration and Nationality Act, a non-citizen subject to a final order of removal from the United States may be detained. The Supreme Court has held, however, that “once removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute.” *Zadvydas v. Davis*, 522 U.S. 678, 682 (2001). The Court went on to explain:

[F]or the sake of uniform administration in the federal courts, we recognize [the 6-month] period. After this 6-month period, once the alien provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing. And for detention to remain reasonable, as the period of prior postremoval confinement grows, what counts as the “reasonably foreseeable future” conversely would have to shrink. This 6-month presumption, of course, does not mean that every alien not removed must be released after six months. To the contrary, an alien may be held in confinement until it has been determined that there is no significant likelihood of removal in the reasonably foreseeable future.

Id. at 701.

In response to *Zadvydas*, in November 2001, the Immigration and Naturalization Service issued regulations, which remain interim final



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rules to this day. See 8 CFR §§ 241.13 & 241.14. The rules limited detention under Section 241(a)(6) to the period reasonably necessary to effectuate removal, set out the Post Order Custody Review (POCR) process, and set the guidelines for when an individual should be released from custody. While the Chief of the ERO Law Division was not present when these rules were drafted, he told us that the regulations were developed to avoid constant *habeas corpus* challenges. In other words, he believed the agency erred on the side of caution so that it would not be bogged down by federal court litigation and the risk of adverse decisions.

The ERO field office must complete a POCR Worksheet within the 90-day removal period following the issuance of a final order of removal. The Field Office Director makes the final decision on whether to keep an individual in custody at this stage. In making their determination, FOD's are instructed to consider "the totality of the circumstances," balancing "adverse factors, such as the severity, number of convictions, amount of time since convictions [against] any equities of the Haitian national, such as duration of residence in the U.S., family ties, or significant medical issues."

As the duration of an alien's time held in ERO custody approaches 180 days, the POCR Unit⁹ conducts a Post-Order Custody Review in order to evaluate whether significant likelihood for removal in the reasonably foreseeable future, which ICE abbreviates as SLRRFF, exists pursuant to 8 CFR 241.13.

On October 15, 2012, ERO Boston forwarded Jacques' case to the POCR Unit. A DO in the POCR Unit reviewed the materials submitted and organized the relevant paperwork for the POCR Unit Chief's final review. When compiling the materials, the POCR Unit DO included the following comments provided by the TDU:

Cases without identity documents have been rather difficult to remove. We have had some success in the past. I will continue to work with the [Department of State] desk officer for Haiti and the political officer at post for a permanent solution. Unfortunately, this case no longer has SLRRFF. If and when we reach a solution, I will notify Boston.

⁹ The POCR Unit is responsible for making custody decisions for detained aliens with final orders of removal, who have not been removed upon the expiration of the 90 day removal period or within a reasonable time frame.



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The POCR Unit Chief took these comments into consideration when making his final determination to release Jacques.

The POCR Unit Chief informed the OIG team that when determining whether to release an alien it is easy to say that there is SLRRFF if the alien possesses a travel document like a passport; however, if the alien does not possess a travel document or the embassy has denied repatriation on several occasions, SLRRFF diminishes and release must be considered per the *Zadvydas* ruling. The Chief of the ERO Law Division agreed with this analysis and acknowledged that one could find there is no SLRRFF following even one denial of repatriation under certain circumstances.

In determining whether to release an individual from custody after 180 days, the reviewing official only considers SLRRFF and the special circumstances outlined in 8 CFR 241.14. The special circumstances permitting prolonged detention include:

- (1) Aliens with a highly contagious disease that is a threat to public safety;
- (2) Aliens detained on account of serious adverse foreign policy consequences of release;
- (3) Aliens detained on account of security or terrorism concerns; and
- (4) Aliens determined to pose a special danger to the public because (a) they have previously committed a violent offense as defined in 18 U.S.C. 16, (b) due to a mental condition or personality disorder, they are likely to engage in acts of violence in the future, *and* (c) no conditions of release can be expected to ensure the safety of the public.

See 8 CFR 241.14(a)-(f). The POCR Unit Chief explained that Jacques did not fall into any of these categories.

Outside of these special circumstances, headquarters does not consider criminal history when making a decision about whether to release the alien from custody. The POCR Unit Chief explained that the review was limited to the POCR checklist, the informational POCR worksheet, a detention letter from the FOD, and some emails. Even though Jacques did not fall into any of the special circumstances permitting prolonged custody without SLRRFF, the POCR Unit Chief recalled being concerned about releasing an individual who had committed a violent crime. In



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some circumstances, the POCR Unit might keep such an alien in custody for another month to attempt removal one more time. While no additional attempts at removal were made, Jacques was held in custody an additional 25 days after the 180-day limit. The POCR Unit Chief explained that ultimately *Zadvydas* and the subsequent regulations prevent ICE from keeping violent offenders in custody if they have concluded that removal is not reasonably foreseeable. As the Court explained:

[I]f removal is reasonably foreseeable, the habeas court should consider the risk of the alien's committing further crimes as a factor potentially justifying confinement within that reasonable removal period.

Zadvydas at 700.

In Jacques' case, the POCR Unit Chief made this determination by looking at whether prior efforts were made to repatriate by the TDU. Given that the TDU made three attempts to repatriate Jacques that were all denied by the Haitian government, the Chief concluded that there was no SLRRFF. The POCR Unit Chief explained that because there was no SLRRFF, ERO could not consider Jacques' criminal history and was bound to release him. Nonetheless, the POCR Unit believed that removal, if not a "significant likelihood," would be possible at some point in the future and recommended that the field office "[c]ontinue engaging country regarding [travel document] issuance." However, the POCR Worksheet with this comment encouraging ongoing engagement were not recorded into Jacques' A-file.

Per Chapter 17.6 of the DROPPM, an alien's removal period may also be extended beyond the legally mandated 180 days if the alien does not comply with required removal efforts. When speaking with OIG representatives, the ERO Boston DO assigned to Jacques' case stated that Jacques cooperated with removal efforts during his detention, particularly by submitting an affidavit acknowledging Haitian citizenship. Therefore, in ERO's view, it would not have been appropriate to extend Jacques' detention pursuant to DROPPM 17.6.

On October 19, 2012, the POCR Unit ordered that Jacques be released from ERO custody as ERO did not have SLRRFF and there was no alternative basis to continue to detain him. Jacques was issued a Release Notification on October 19, 2012, which stated:



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ICE will continue to make efforts to obtain your travel document that will allow the United States government to carry out your removal pursuant to your order of deportation, exclusion, or removal. In addition, you are required by law to continue to make good faith efforts to secure a travel document on your own and provide proof of your efforts to ICE.

ERO Boston released Jacques from detention on November 9, 2012.

Order of Supervision

Jean Jacques was released from custody pursuant to an Order of Supervision (OSUP).¹⁰ Among other requirements, Jacques' OSUP ordered him to:

- Appear in person at the time and place specified, upon each and every request of the agency;
- Report to ERO Newark on December 12, 2012;
- Assist ICE in obtaining any necessary travel documents; and
- Not associate with known gang members, criminal associates, or commit any crimes.

The OSUP stated that any violations of his conditions "will result in revocation of your employment authorization document" and "may result in you being taken into Service custody and you being criminally prosecuted."

Jacques' OSUP also noted that he would possibly be enrolled in the Alternatives to Detention (ATD) program, which includes conditions like electronic monitoring, curfew, and home visits.

When asked why Jacques was never placed on ATD, several DOs explained that, pursuant to guidance, he would not have qualified.¹¹

¹⁰ An OSUP sets certain conditions on an alien's release from custody. Aliens released from custody with a Final Order of removal are supervised by DOs assigned to the non-detained unit of the relevant field office.

¹¹ On February 28, 2011 an ICE Executive Associate Director issued a memorandum to ICE Field Office Directors on the subject of "Alternatives to Detention Program Participant Enrollment Guidance." The memorandum issued the following guidelines:

1. Prioritize the enrollment of aliens who pose a significant risk of flight and who are likely to be removed in the near future.
2. Aliens who are not likely to be removed in the reasonably foreseeable future should not be enrolled (or continued) in the ATD program.



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Deportation Officers in ERO Hartford and ERO Newark explained that the ATD program is not intended to be punitive or regarded as a crime prevention tool. On the contrary, it is utilized as a supervision program to promote compliance with ERO and court requirements. The ERO Hartford Assistant Field Office Director (AFOD) also explained that an alien would only be put on ATD to help ensure compliance with removal likely to occur in the foreseeable future. According to the ERO Hartford AFOD, aliens with no SLRRFF would not be placed on ATD because they believed that it would be cost-prohibitive to have them enrolled in the program possibly for the rest of their lives. Since Jacques was unlikely to be removed in the reasonably foreseeable future, according to the ERO Hartford AFOD, he would have been ineligible for the ATD program.

Efforts to Remove Jacques While on an Order of Supervision

There is no documentation to indicate that Jacques contacted his relatives to assist him in obtaining a travel document or reached out to the Haitian Embassy or Consulate directly to request a travel document or establish his nationality.

There is, similarly, no evidence of any efforts made by officers in Boston, Hartford, or Newark to repatriate Jacques or obtain a travel document during Jacques' supervised release. Most of the officers in the field were unaware of the existence of the DROPPM and explained that their practices to work towards removal of non-detained aliens were primarily based on on-the-job training and directives received by email. Chapter 16 of the DROPPM, furthermore, would not have applied to the period of time Jacques was under an OSUP because it relates to preparations for travel within 90 days of the final order of removal and not situations in which the alien is on an order of supervision. The ERO Law Division confirmed that there is no specific DROPPM guidance or other formal policy related to removal efforts while an alien is under OSUP.

Officers in the field told us, furthermore, that the steps they took to achieve removal were discretionary. Several explained that the likelihood of removal would play the largest factor in determining whether they dedicated additional time to obtaining an identity document. Officers also stated that, while they could not recall the specifics of Jacques' case, they would not have made additional efforts to remove Jacques because

3. Expand the use of technology-only (TO) reporting.



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they believed that such efforts would have been futile given that Haiti had previously denied three repatriation requests.

Every DO assigned to the non-detained units at ERO Newark and ERO Hartford, furthermore, explained to OIG that the size of their caseload makes it nearly impossible to actively pursue removal and set frequent reporting requirements for every alien on their docket. The ERO Newark AFOD stated that there are only three or four DOs assigned to approximately 37,000 non-detained cases. The ERO Newark AFOD noted that one year, out of about 34,000 cases, ERO Newark was successfully able to remove only 50 aliens. According to one ERO Newark DO, as many as 75 non-detained aliens could report to the Newark field office on any given day, leaving officers little time to prepare for the meetings or to effectively work towards the removal of each alien.

ERO Hartford AFOD echoed these concerns about the size of each DO's caseload, explaining that ERO Hartford is burdened with more than 10,000 non-detained cases assigned to three DOs.

Jacques' Reporting Requirements

As Chart 1 demonstrates below, the interval between Jacques' scheduled reporting dates ranged from a month to a year, and Jacques met with a different DO at each reporting. A Supervisory Detention and Deportation Officer (SDDO) from ERO Hartford explained that each DO exercises his/her own discretion to set the reporting requirements depending on the alien's circumstances. Another SDDO, a former supervisor on the non-detained unit at ERO Hartford, explained that longer times between reporting periods would be appropriate if the alien had shown ongoing compliance with the OSUP.

The ERO Newark AFOD explained that the purpose of these reporting meetings is for the DOs to check the criminal activity of the alien and determine if the alien has made any progress in obtaining a travel document. At the end of the meeting, the alien is given a new reporting date and would potentially be given an assignment to complete before the next appointment, like visiting a consulate to request a travel document or contacting a family member to obtain documentation.

Deportation Officers at ERO Newark and ERO Hartford described typical procedures on a non-detained alien's reporting date. According to an ERO Newark DO, when Jacques reported to ERO Newark, he would have met with any DO who was available to assist with OSUP cases. At ERO



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Hartford, a different officer was assigned to the “duty window” each week to meet with aliens reporting on those days. In both ERO Hartford and ERO Newark, the DO would run criminal record checks, review the A-file, speak to the alien to determine what efforts might be necessary to achieve removal, and set a new reporting date. If the officer on duty had specific questions about an alien, he/she would follow-up with the DO supervising that individual.

The EARM entries, which can be seen attached as Appendix C, frequently lack specificity about what actions were taken during Jacques reporting meetings.

Jacques’ Reporting Practices

Although it appears that Jacques remained on the ERO Newark non-detained docket and was expected to report to ERO Newark, Jacques oscillated between reporting to ERO Newark and ERO Hartford between 2012 and 2015.

Chart 1 lays out the dates and locations of Jacques’ reporting while under an OSUP.

Assigned Reporting Date	Actual Reporting Date	Reporting Location	Approximate Time Until Next Reporting Date
12/12/12	11/29/12	OSUP (dated 11/9/12) says report to NEWARK but reports early to HARTFORD	½ month
12/12/12	12/12/12	HARTFORD	1 month
1/16/13	1/16/13	NEWARK	1 ½ months
2/27/13	2/27/13 ¹²	NEWARK	4 months
6/26/13	6/26/13	NEWARK	12 months

¹² The EARM entry is dated 2/28/13 but the DO reported that she believed Jacques actually reported on 2/27/13.


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6/26/14	No-show: CT custody for Parole Violation on 7/17/14	Unknown	Unknown
N/A released from CT DOC custody	1/16/15	HARTFORD	1 month
2/17/15	3/2/15 (LATE)	NEWARK	2 months
5/5/15	5/5/15	HARTFORD	3 months
8/6/15	No-show: CT arrest & custody on 6/15/15		

On November 29, 2012, Jacques showed up at ERO Hartford to report that he was currently residing at a halfway house located in Connecticut. He, then, showed up for his December 12, 2012 initial reporting date at ERO Hartford.

Jacques returned to his assigned reporting location at ERO Newark but failed to show up for at least one of his scheduled reporting dates. Jacques did not show up to his reporting on June 26, 2014 because he was arrested for violating his parole on June 17, 2014. Records from Connecticut Parole show that, at the time, the conditions of Jacques' parole did not permit him to leave the state of New Jersey, which he violated when he began working at a bar in New York. Following his arrest, he was extradited to Connecticut and held in Connecticut state custody until January 2015.

On January 16, 2015, the Connecticut Department of Corrections (DOC) released Jacques to ERO Hartford custody. Upon reporting to ERO Hartford, Jacques met with a DO on the Detention Unit. This DO evaluated whether Jacques could be kept in custody for the purpose of



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obtaining a travel document. The DO, pursuant to the instruction of the SDDO, released Jacques under the existing OSUP because there was no SLRRFF. Accordingly, ERO Hartford sent the A-File to Newark,¹³ told Jacques to immediately report to the Norwich, CT parole office, and scheduled Jacques to report to ERO Newark on February 17, 2015.

Jacques reported two weeks late for that February meeting in Newark. The EARM entry for March 2, 2015 indicates that Jacques claimed he was late due to a miscommunication with ICE and his parole officer.

Jacques reported to ERO Hartford one more time on May 5, 2015. ERO case documents and interviews with OIG did not explain why Jacques reported to Hartford instead of Newark on that date.

Response to Jacques' Non-Compliance

While Jacques showed up to different field offices and missed at least one of his scheduled reporting dates, there is no evidence of ICE bringing him back into custody.

An ERO Hartford SDDO explained that there are few tools available to DOs looking to coerce compliance from an alien like Jacques on an OSUP. The POCR Training materials, for example, state there are limited situations in which the ERO can re-detain an alien on an OSUP. First, if an alien who was previously unable to secure a travel document is suddenly able to receive one, the ERO could detain the alien to ensure removal if the individual were a potential flight risk. Second, if the alien commits a crime or violates parole, the individual can be prosecuted for failure to comply with the OSUP. The training materials note, however, that this process of getting an alien back in custody is unlikely to be pursued because U.S. Attorney's Offices rarely agree to prosecute these cases.

2015 Arrest and Subsequent ERO Activities

The Norwich Police Department in Connecticut arrested Jacques on June 15, 2015 for the sale of illegal drugs. On June 25, 2015, while still in Connecticut state custody, the Norwich Police Department charged Jacques with the murder of Casey Chadwick.

¹³ The fact that the A-File was in ERO Hartford's possession indicates that the A-File was likely sent from Newark to Hartford at some point after Jacques' initial release from custody. The OIG has not confirmed if/when this occurred.



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Following Jacques' arrest, his file was assigned to the docket of a DO at ERO Hartford. This DO was also tasked with reviewing the case history and drafting an executive summary.

ERO Hartford began calling the Haitian consulate monthly in attempts to obtain a travel document and made several unsuccessful attempts to contact Jacques' brother in Elizabeth, New Jersey. On January 26, 2016, ERO Hartford obtained and reviewed the A-file of Jacques' mother. The A-file did not contain identity documents for Jean Jacques; however, two forms listed Jean Jacques as her son. ERO Hartford provided the AAR with Jacques' mother's forms, her Haitian baptismal certificate, and her Haitian birth certificate, in order to add Jacques to the February 2016 manifest for removals.

On February 2, 2016, the Chief of Political Affairs verbally notified the AAR that Jacques' removal to Haiti was approved; however, later in the day, the Haitian government withdrew their approval, stating via email:

We apologize. We are sorry not can receive Mr. Jean Jacques Jean Ives. Jean Jacques has no Haitian identifications. Therefore, He is not approved on Tuesday February 16, 2016 flight. If you have more informations about him, send to us them please. [sic]

On February 8, 2016, ERO Hartford spoke with Jacques' mother through a translator. She explained that she had lost all of her children's Haitian identifications.

On April 11, 2016, Jacques was found guilty of the murder of Casey Chadwick.



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Appendix A

Timeline

April 29, 1992	The U.S. Coast Guard interdicts Jean Jacques at sea.
July 6, 1992	The former U.S. Immigration and Naturalization Service (INS) paroles Jacques into the United States.
June 9, 1997	The Norwich, CT Superior Court convicts Jacques for attempted murder and possessing a firearm without a permit and sentences him to 20 years of imprisonment, 16 years to serve, and five years of probation for attempt to commit murder, and five years of imprisonment to be served concurrently for no pistol permit.
May 15, 2001	The INS serves Jacques with Form I-862, Notice to Appear.
November 5, 2002	An immigration judge orders Jacques removed to Haiti and denies his application for Withholding of Removal under the Convention Against Torture.
April 5, 2012	ERO Boston notifies the Consulate General of Haiti that Jacques is detained in Connecticut Department of Corrections (CT DOC) custody.
April 18, 2012	The CT DOC releases Jacques to ICE custody.
May 7, 2012	ERO Boston completes a Post Order Custody Review (POCR) Worksheet, determining that Jacques will remain in custody.
May 7-11, 2012	ERO Boston compiles a travel document request packet and engages the Headquarters Travel Document Unit (the TDU) for assistance with Jacques' removal. Jacques is nominated for a June 2012 charter flight to Haiti.
May 29, 2012	The Assistant Attaché for Removals (AAR) for Haiti, presents Jacques' travel document (TD) request to the government of Haiti.
June 5, 2012	The government of Haiti denies Jacques' entry into Haiti.
July 26, 2012	TDU adds Jacques to the manifest for the August 2012 charter flight to Haiti.
August 7, 2012	The AAR for Haiti presents Jacques' TD request


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	to the government of Haiti.
August 16, 2012	The government of Haiti denies Jacques' removal because he does not have any Haitian Identification.
September 4, 2012	ERO Boston completes POCR worksheet, determining that Jacques remain in ICE custody.
September 17, 2012	ERO Boston conducts a sworn statement interview with Jacques to determine his Haitian citizenship and adds the sworn statement to Jacques' TD request.
October 1, 2012	The AAR for Haiti presents the new Jacques' TD request to the government of Haiti and receives verbal confirmation that Jacques is approved for repatriation.
October 4, 2012	The government of Haiti tells the AAR for Haiti that Jacques is denied return to Haiti due to insufficient identification.
October 15, 2012	ERO Boston sends the Jacques case to ERO Headquarters POCR Unit to make a custody determination.
October 19, 2012	The ERO POCR Unit Chief orders that Jacques be released from ICE custody.
November 9, 2012	ERO Boston releases Jacques on an Order of Supervision (OSUP) and tells him to report to ERO Newark on December 12, 2012.
November 29, 2012	Jacques reports to ERO Hartford to change his address to an address in Hartford, Connecticut.
December 12, 2012	Jacques reports in person at ERO Hartford and is given a new reporting date of January 16, 2013.
January 16, 2013	Jacques reports to ERO Newark and is given a new reporting date of February 27, 2013.
February 27, 2013	Jacques reports to ERO Newark and is given a new reporting date of June 26, 2013.
June 26, 2013	Jacques reports to ERO Newark and is given a new reporting date of June 26, 2014.
June 17, 2014	Jacques is arrested and taken into CT DOC custody for a parole violation for leaving the state of New Jersey.
June 26, 2014	Jacques misses his reporting date.
January 16, 2015	CT DOC releases Jacques into ERO Hartford custody. He is instructed to report to ERO


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	Newark on February 17, 2015.
February 17, 2015	Jacques fails to appear before ERO Newark as instructed.
March 2, 2015	Jacques reports late to ERO Newark, claiming a miscommunication, and is scheduled to report back to ERO Newark on May 5, 2015.
May 5, 2015	Jacques reports to ERO Hartford and is given a new reporting date of August 6, 2015.
June 15, 2015	The Norwich, CT Police Department arrests Jacques for sale of illegal drugs.
June 25, 2015	While still in state custody, the Norwich Police Department arrests Jacques for the murder of Casey Chadwick.
January 26, 2016	ERO Boston reviews the administrative file of Jacques' mother. Jacques is listed as her son on two forms.
February 1, 2016	The AAR for Haiti presents the Jacques' previous TD request along with his mother's Haitian baptismal and birth certificates and his half-brother's immigrant visa application to the government of Haiti.
February 2, 2016	The government of Haiti tells the AAR for Haiti that Jacques is approved for repatriation to Haiti but later withdraws the approval due to insufficient identification.
February 8, 2016	ERO Boston contacts Jacques' mother in NJ, who indicated that Jacques' Haitian documents were lost over the course of time.

**INSTRUCTION SHEET TO DETAINEE REGARDING REQUIREMENT TO ASSIST IN
REMOVAL**

The following is a list of things you are required to complete within thirty days of receiving this form, in order to comply with your obligation to assist in obtaining a travel document:

Mandatory requirements will be checked off by the ICE Officers depending on the facts of each case. Failure to comply or provide sufficient evidence of your inability to comply may result in the extension of the removal and subject you to further detention. In addition, you may be subject criminal prosecution. If you need assistance in complying with any of these requirements, please contact a Deportation Officer.

- Submit passports (current and expired) to ICE. If you have a copy of your passport, you are to submit.
- Apply for a travel document/passport from your embassy or consulate, or directly from your government in your native country, or any other embassy or consulate of your native country in another country.
- Comply with all instructions from all embassies or consulates requiring completion of documentation for issuance of a travel document.
- Submit to ICE birth certificates, national identification cards, and any other document issued by foreign government indicating your citizenship, nationality, place of birth, and place of residence prior to entering United States.
- Provide names and addresses of family and friends residing in the United States and request that they contact your embassy or consulate in the United States, in order to facilitate the issuance of a travel document.
- Provide names and addresses of family and friends residing in your country of citizenship and request family and friends residing abroad contact your government in reference to issuing a travel document.
- You are required to take measures to request reinstatement of your previous nationality, register as required, or take any other action that will ensure the issuance of a travel document and your removal from United States.
- Provide ICE with written copies of request to embassies or consulates requesting issuance of a travel documents.
- Provide INS with written copies of requests to embassies or consulates requesting issuance of a travel document.
- Provide INS with written copies of responses from embassies or consulates regarding your requests.
- Solicit permission from another country, which may be able to accept you, to enter that country to effect your removal from the United States.
- Other:

X Jean Jacques		A# 72 385 539	JEAN-JACQUES, Jean
		A Number	Printed Name
		01/01/12	NEW ENGLAND FIELD OFFICE
		Date	Location

To be served with I-229 (a) no later than 30 days after the final order

4/18/2012

AFR169

U.S. Department of Homeland Security
Immigration and Customs EnforcementI-229 (a)
Warning for Failure to Depart

Name: JEAN-JACQUES, Jean	District Office: NEW ENGLAND FIELD OFFICE	File #: A# 72 385 539
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Section 243(a) of the Immigration and Nationality Act provides, in part, that:

Any alien against whom a final order of removal is outstanding by reason of being a member of any of the classes described in section 237 (a) who:

(A) willfully fails or refuses to depart from the United States within a period of 90 days from the date of the final order of removal under administrative processes, or if judicial review is had, then from the date of the final order of the court,

(B) willfully fails or refuses to make timely application in good faith for travel or other documents necessary to the alien's departure,

(C) connives or conspires, or takes any other action, designed to prevent or hamper or with the purpose of preventing or hampering the alien's departure pursuant to such, or


(D) willfully fails or refuses to present himself or herself for removal at the time and place required by the Attorney General pursuant to such order,

shall be fined under title 18, United States code, or imprisoned not more than four years (or 10 years if the alien is a member of any of the classes described in paragraph (1)(E), (2), (3), or (4) of section 237 (a)), or both.

Nothing in this section shall make a violation to take proper steps for the purpose of securing cancellation of or exemption from such order of removal or for the purpose of securing the alien's release from incarceration or custody.

Any action Immigration Custom Enforcement may take to obtain a travel document for your departure or to remove you will NOT relieve you off the liability for compliance with the provisions of law referred to in the first paragraph above.

Section 241 (a) (1) (C) provides for the extension of the statutory removal period if the alien refuses, during the removal period, to make application in good faith, for a travel or other document necessary for the alien's removal or departure or conspires or acts to prevent the alien's removal subject to an order of removal.

Date Order Final:	Ordered Removed under Section:
Record of Service (check method used) Record of Personal Service	
Served by: (Print Name and Title of Officer) [Redacted] IEA	Date: 4/6/2012 4/6/12
Officer's Signature: [Redacted]	Location of Service: NEW ENGLAND FIELD OFFICE
Served on: (Alien's Signature) X Jean Jacques	Date: 4/6/2012 4/6/12
Warning administered in Court (copy of order attached)	Record of Personal Service (Cont.)
Certified Mail Service	Fingerprint of Alien (Specify finger used)
Attach certified mail receipts here.	Right Index Finger
	

4/18/2012

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EARM Case Comments

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Person ID: 6101728 Sex: M DOB: 10/30/1974 Current Age: 40 COE: HAITI COE: HAITI
 Subject ID: 342871819 Processing Disposition: Bag and Baggage
 Case #: 6770162 Case Category: [REDACTED] District: NEW - OS NEWARK D48 - 400-898
 Final Order of Removal: Yes Time in Custody: N/A Special Class:
 Final Order Date: 03/19/2003 Departure Cleared Status: ACTIVE
 Processed 12th National No.
 Days Final Order in Effect: 4539

Aggravated Felon
 Deportation History
 Final Order of Removal
 Criminal



Jean Jacques, Jean Ives 072 385 539

Comments

FILTER BY COMMENT TYPE

SHOW / HIDE DELETED COMMENTS

EARM

Show Deleted Comments

EADM

ATD

FILTER BY ENTERED DATE

All Dates

7/17/2014
 Violation of Probation

All of the following comments are related to Case # 6770162

Results: 43 total

Date Entered	Entered By	Type	Comments
03/02/2015 12:17 AM	FNE [REDACTED]	EARM	Subject reported late, he claims there was miscommunication with ICE and his parole officer. Subject advised that he must comply with all his OSUP reports from here on. Subject advised to report to ICE Newark office for OSUP on 06/25/2015 GG
01/18/2015 11:13 AM	HAI [REDACTED]	EARM	Alien was released from CT Dept of Corrections for parole violation. Contacted Officer [REDACTED] from CT Prison and parole Dept [REDACTED]. Alien is to report to Newark, CT [REDACTED] office at 2 Cliff Street, Newark, CT before being transferred to New Jersey Parole Office. Alien was released on OSUP, to report to Newark ICE on 02/17/2015. Alien to be sent to Newark Office [REDACTED]
06/25/2013 11:50 AM	NEV [REDACTED]	EARM	Next report 6/26/14
02/25/2013 01:06 AM	FNE [REDACTED]	EARM	next report 6/25/13
02/25/2013 08:15 PM	FNE [REDACTED]	EARM	drucks neg
01/18/2013 09:25 AM	CDR [REDACTED]	EARM	A-File transferred to NEW (D.O.#3, HARMDD)
01/18/2013 11:23 AM	FNE [REDACTED]	EARM	Subject reported on 1/18/13 to Newark/ERO. Subject is also on parole with Officer [REDACTED] (phone [REDACTED]). Next report date 2/27/13. Subject stated he does not have a birth certificate or any documents from Haiti and he does not think they will issue. Subject also had heart surgery recently. sm
11/29/2012 12:24 PM	CBT [REDACTED]	EARM	Subject reported to HAI/ERO today's date, subject is a resident at Open Health Association, P.O. Box 1072, 437 Sheldon St. Hartford, CT 06143. Next report date is 12/12/12. (D.O.#3, HARMDD)
11/09/2012 01:06 PM	BOS [REDACTED]	EARM	File to BOS records to forward to ICE/INP.
11/09/2012 01:03 PM	BOS [REDACTED]	EADM	Subject told to call NEW before the 12/12/2012 report in date that was given to him.
11/06/2012 04:24 PM	FME [REDACTED]	EADM	ICE Air Ops
11/06/2012 09:36 AM	NOL [REDACTED]	EADM	
11/05/2012 09:45 AM	BOS [REDACTED]	EARM	requested subject be returned to Boston ASAP in order to release.
10/28/2012 09:57 AM	BOS [REDACTED]	EARM	paperwork forwarded to detention SD to be forwarded to Newark Field Office. There is a possibility he can be released from there.
10/12/2012 10:11 AM	BOS [REDACTED]	EARM	awaiting JEAN JACQUES return to serve the released paperwork on him.
10/02/2012 08:59 PM	FNI [REDACTED]	EADM	
10/02/2012 01:33 PM	FNI [REDACTED]	EADM	ICE AIR OPS
10/01/2012 10:34 AM	ACD [REDACTED]	EARM	File to SDGO for signatures for 12/30/2012 Air Ops removal [REDACTED] for [REDACTED]
09/19/2012 10:55 AM	BOS [REDACTED]	EARM	Release paperwork to SDGO.
09/17/2012 11:07 AM	BOS [REDACTED]	EARM	Called consulate in Boston and asked them if they would review the TD paperwork we have on subject. Mr. [REDACTED] told me to fax over everything I have, so I did.
09/14/2012 12:27 PM	BOS [REDACTED]	EARM	requested detainee be transferred to Burlington for an interview on Monday, 09/17.
09/12/2012 09:12 AM	KSI [REDACTED]	EARM	Continued Detention order signed 9:10 by [REDACTED]
09/07/2012 12:58 PM	FSD [REDACTED]	EARM	Bio info requested from DOJ, forwarded to DOJ [REDACTED] on 9/6/12.
09/06/2012 12:44 PM	BOS [REDACTED]	EARM	BROTHER: [REDACTED] 1-800- [REDACTED]

AFR9

<https://earm.ice.dhs.gov/earm/comment/printConsolidatedComments.do?mode=print>

7/15/2015

EARM Case Comments

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Date Entered	Entered By	Type	Comments
06/06/2012 09:14 AM	BOS	EARM	Requested liaison ask subject some questions for a sworn statement I am preparing.
09/05/2012 03:07 PM	BOS	EARM	Alien has been twice nominated for Haitian charter, but rejected both times for lack of ID. Alien to be interviewed again to see what more can be learned.
09/04/2012 11:56 AM	BOS	EARM	File to SDOO for signature on release letter. HAITI WILL NOT ISSUE A TD. - View Revision History
08/29/2012 01:58 PM	FBO	EADM	B&B transfer, Property (if any) en route with the IGSA transport team and will be delivered and re-entered into EADM by the property officer upon arrival.
08/29/2012 09:52 AM	FNI	EADM	n
08/27/2012 38:57 AM	BOS	EARM	A-file in my cubicle awaiting his return to horizon and subsequent release from custody.
05/29/2012 09:03 PM	FCH	EADM	
05/29/2012 01:20 PM	FMI	EADM	109.29
05/28/2012 02:27 PM	FMI	EADM	ICE AIR OPS
05/28/2012 02:24 PM	FMI	EADM	ICE AIR OPS
04/23/2012 01:47 PM	BOS	EARM	paperwork (Rico, equities review, I229a and Notice of Review) forwarded to liaison to serve on subject.
04/19/2012 06:18 AM	ACD	EARM	File to SDOO for signature and then DRA for TD Request.(KF)
04/16/2012 06:00 PM	FBO	EADM	B&B transfer from HAR to BOS. Property (if any) en route with the IGSA transport team and will be delivered and re-entered into EADM by the property officer upon arrival.
04/16/2012 04:33 PM	FBO	EADM	TRANSFER TO BRISTOL NOC
04/ 8/2012 02:12 PM	FSL	EADM	SUBJECT is a new admit W/O. SUBJECT came from Confinement on 4/7/8/2012. SUBJECT was booked in at the Hartford ICE Office and transferred to Burlington on the same day. SUBJECT was given a free phone call.
07/19/2009 12:49 PM	EARM_MIG	EARM	02/10/2009 JACS MIGRATED CCRT COMMENT: APPEAL DISMISSED AS UNTIMELY FILED.
08/09/2008 02:36 PM	EARM_MIG	EARM	ON 12/12/02, BIA REC AND ACPT APPEAL.
08/09/2008 02:27 PM	EARM_MIG	EARM	FILE LOCATION: HAR/STJ
08/09/2008 01:53 PM	EARM_MIG	EARM	CENF. 11/05/02 C/D, NO APPEAL FILED PER BIA AUTO LINE 12/10/02.

Comment Type Legend

EARM: Case comments entered in the EARM system.

EADM: Detention comments entered in the EADM system.

ATD: Alternatives to Detention comments entered in the EARM system.